

Republic of the Philippines
HOUSE OF REPRESENTATIVES

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6301



Introduced by HONORABLE WES GATHCALIAN

AN ACT
PROVIDING PROTECTION TO COOPERATIVE DEPOSITORS BY ESTABLISHING
THE PHILIPPINE COOPERATIVE INSURANCE CORPORATION, DEFINING ITS
POWER AND FUNCTION, APPROPRIATING FUNDS THEREFORE AND FOR
OTHER PURPOSES.

EXPLANATORY NOTE

Cooperatives as a policy instrument of the government in the promotion of social justice and economic development have been enshrined in the 1987 Constitution, and amplified by such laws as Republic Act No. 9520 (Philippine Cooperative Code of 2008) and Republic Act No. 6939 (Cooperative Development Authority).

The primary objective of every cooperative is to help improve the quality of life of its members. Since its introduction in the Philippines in the 1890's, cooperatives have created job opportunities, generated income and empowered the people as a voluntary organization thereby contributing to national development. As of December 31, 2018 there are 18,065 operating cooperatives in the country.

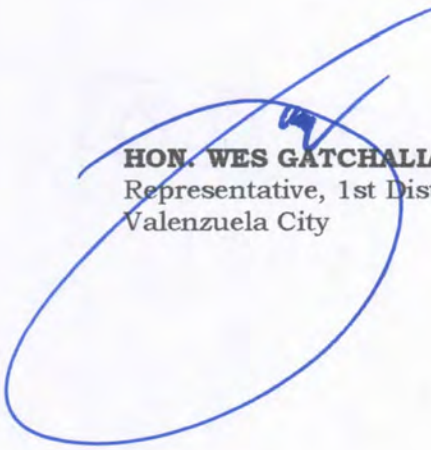
While there are different kinds of cooperatives, the Credit Cooperatives and Financial Service Cooperative are unique because they were authorized by law to undertake and engage in savings and loan services. These types of cooperatives are significant alternative source of funds and capital for communities, small businesses and marginalized sectors that are often shunned by banks and other formal financial institutions. These cooperatives have the potential to contribute to the rapid economic growth of the country because of their power to mobilize savings and capital that serve as inputs in the production of goods and services of the less privileged members of the society. While the government encourages thriftiness and savings mobilizations in all cooperatives, mechanisms, however, are not yet in place to protect the interest of the depositors by way of insurance for deposits of Cooperatives.

Small depositors are not protected in case the cooperatives close down or organizers run away with members' savings. Usually these small time depositors do not have the capacity to run after those who have mismanaged or misappropriated the funds of the cooperative. The inability of these cooperatives to create an environment of trust for the safekeeping of their savings limits the growth of the cooperative industry. Like bank depositors, cooperative depositors also need protection on their deposits in cases of closure or its officials running away with the cooperative's deposits, hence this legislation.

This bill seeks to establish the Philippine Cooperative Insurance Corporation to protect and insure cooperative deposits in the event of closures or unforeseen events. A Cooperative deposit insurance system shall strengthen and maintain the health of the Philippine Cooperative financial system, at the same time build public trust and confidence on the industry to attract more depositors and generate additional membership for cooperatives.

The bill also provides for a mandatory receiver/liquidator of closed cooperatives with the power to grant financial assistance and assumption of liabilities to cooperatives in danger of closing and grants an insurance coverage of not more than Php300,000.00 per cooperative depositor.

Urgent approval of this bill is earnestly requested.



HON. WES GATCHALIAN
Representative, 1st District
Valenzuela City

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Introduced by **HONORABLE WES GATCHALIAN**

AN ACT

**PROVIDING PROTECTION TO COOPERATIVE DEPOSITORS AND
ESTABLISHING THE PHILIPPINE COOPERATIVE INSURANCE CORPORATION,
DEFINING ITS POWER AND FUNCTION, APPROPRIATING FUNDS THEREFORE
AND FOR OTHER PURPOSES.**

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

3 SECTION 1. **Short Title.** - This Act shall be known as the "*Cooperative*
4 *Depositors Protection Act of 2020.*"

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

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

18 SECTION 4. **Powers and Functions** - The Corporation shall have the
19 following powers and functions:

- 20 a) To provide a deposit insurance scheme for insured cooperatives and to
21 receive, liquidate and wind up any cooperative;

- b) To formulate and issue rules and regulations for the effective discharge of its responsibilities;
- c) To organize its office, fix the compensation of and appoint personnel as may be deemed necessary upon the recommendation of the president of the Corporation;
- d) To direct the management and operation of the Corporation;
- e) To receive and manage grants, donations, and other forms of assistance;
- f) To sue and be sued;
- g) To adopt an annual budget for, and authorize such expenditures by the Corporation;
- h) To perform such other acts as it may deem necessary for the corporation to undertake its mandate and functions.

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

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

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

The Secretary of Finance may designate a representative, whose position shall not be lower than an undersecretary or deputy governor

1 respectively, to attend such meetings and to vote on behalf of the
2 principal. Whenever the Chairman of the Board is unable to attend a
3 meeting of the Board, or in the event of a vacancy in the office of the
4 Secretary of Finance, the President of the Corporation shall act as
5 Chairman.

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

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

11 SECTION 6. ***The President of the Corporation*** - The President of the
12 Corporation shall be the Chief Executive thereof and his salary shall be fixed by
13 the President of the Philippines. The sum total of the salary of the President and
14 the allowances and other emoluments which the Board of Directors may grant him
15 shall be the ceiling for fixing the salary, allowances and other emoluments of all
16 other personnel in the Corporation. The powers and duties of the President of the
17 Corporation are:

- 18 a. To prepare the agenda for the meeting of the Board and to submit for the
19 consideration of the Board the policies and measures which he believes
20 to be necessary to carry out the purposes and provisions of this Act;
- 21 b. To execute and administer the policies and measures approved by the
22 Board;
- 23 c. To direct and supervise the operations and internal administration of the
24 Corporation in accordance with the policies established by the Board.
25 The President may delegate certain of his administrative responsibilities
26 to other officers of the Corporation, subject to the rules and regulations
27 of the Board;
- 28 d. To represent the Corporation, upon prior authority of the Board, in all
29 dealings with other offices, agencies and instrumentalities of the
30 government and with all other persons or entities, public or private,
31 whether domestic, foreign or international;
- 32 e. To authorize, with his signature, upon prior authority of the Board,
33 contracts entered into by the Corporation, notes and securities issued by
34 the Corporation, and the annual reports, balance sheets, profits and loss
35 statements, correspondence and other documents of the Corporation.
36 The signature of the President may be in facsimile wherever appropriate;
- 37 f. To represent the Corporation, either personally or through counsel, in all
38 legal proceedings or actions;

1 g. To delegate, with the prior approval of the Board of Directors, his power
2 to represent the Corporation, as provided in subsections (d) and (f) of this
3 section, to other officers of the Corporation; and

4 h. To exercise such other powers as may be vested in him by the Board.

5 The President shall be assisted by a Vice President and other officials whose
6 appointment and removal for cause shall be approved and whose salary shall be
7 fixed by the Board of Directors upon recommendation of the President of the
8 Corporation. During the absence or temporary incapacity of the President, or in
9 case of vacancy or permanent incapacity and pending the appointment of a new
10 President of the Corporation by the President of the Philippines, the Vice President
11 shall act as President and discharge the duties and responsibilities thereof.

12 SECTION 7. ***Definition of Terms- As used in this Act —***

13 a) The term "Board of Directors" means the Board of Directors of the
14 Corporation.

15 b) The term "Cooperative" shall be synonymous and interchangeable and
16 shall include other types and categories of cooperatives that encourages
17 and accept savings among its members and the general public.

18 c) The term "receiver" includes a receiver, commission, person or other
19 agency charged by law with the duty to take charge of the assets and
20 liabilities of the cooperative which has been forbidden from doing deposit
21 business in the Philippines, as well as the duty to gather, preserve and
22 administer such assets and liabilities for the benefit of the depositors of
23 said cooperative, and to continue into liquidation whenever authorized
24 under this Act or other laws, and to dispose of the assets and to wind up
25 the affairs of such cooperative.

26 d) The term "insured cooperative" means any cooperative the deposits of
27 which are insured in accordance with the provisions of this Act.

28 e) The term "non-insured cooperative" means any cooperative the deposits
29 of which are not insured.

30 f) The term "deposit" means the unpaid balance of money or its equivalent
31 received by a cooperative in the usual course of savings deposit business
32 and for which it has given or is obliged to give credit to a savings, time or
33 thrift account, or issued in accordance with Cooperative Development
34 Authority rules and regulations, R.A.9520 and other applicable laws,
35 together with such other obligations of a cooperative consistent with
36 cooperative principles and practices, the Board of Directors shall
37 determine and prescribe by regulations to be deposit liabilities of the
38 cooperative.

1 The Corporation shall not pay deposit insurance for the following
2 accounts or transactions, whether denominated, documented, recorded
3 or booked as deposit by the cooperative:

- 4 1. Investment products such as share capital, fix deposits, bonds
5 and securities, trust accounts, and other similar instruments;
- 6 2. Deposit accounts or transactions which are unfunded, or that are
7 fictitious or fraudulent;
- 8 3. Deposit accounts or transactions constituting, and/or emanating
9 from, unsafe and unsound cooperative savings transactions
10 practice/s, as determined by the Corporation, in consultation with
11 the CDA, after due notice and hearing, and publication of a cease
12 and desist order issued by the Corporation against such deposit
13 accounts or transactions; and
- 14 4. Deposits that are determined to be the proceeds of an unlawful
15 activity as defined under Republic Act 9160, as amended.

16 g) The term "insured deposit" means the amount due to any bona fide
17 depositor for legitimate deposits in an insured cooperative net of any
18 obligation of the depositor to the insured cooperative as of the date of
19 closure, but not to exceed Three Hundred Thousand Pesos
20 (P300,000.00). Such net amount shall be determined according to such
21 regulations as the Board of Directors may prescribe. In determining
22 such amount due to any depositor, there shall be added together all
23 deposits in the cooperative maintained in the same right and capacity
24 for his benefit either in his own name or in the name of others. A joint
25 account regardless of whether the conjunction "and," "or," "and/or" is
26 used, shall be insured separately from any individually-owned deposit
27 account: Provided, That (1) If the account is held jointly by two or more
28 natural persons, or by two or more juridical persons or entities, the
29 maximum insured deposit shall be divided into as many equal shares as
30 there are individuals, juridical persons or entities, unless a different
31 sharing is stipulated in the document of deposit, and (2) if the account
32 is hold by a juridical person or entity jointly with one or more natural
33 persons, the maximum insured deposit shall be presumed to belong
34 entirely to such juridical person or entity: Provided, further, That the
35 aggregate of the interest of each co-owner over several joint accounts,
36 whether owned by the same or different combinations of individuals,
37 juridical persons or entities, shall likewise be subject to the maximum
38 insured deposit of Three Hundred Thousand Pesos (P300,000.00):
39 Provided, furthermore, That the provisions of any law to the contrary
40 notwithstanding, no owner/holder of any negotiable certificate of
41 deposit shall be recognized as a depositor entitled to the rights provided
42 in this Act unless his name is registered as owner/holder thereof in the

books of the issuing cooperative: Provided, finally, That, in case of a condition that threatens the monetary and financial stability of the financial system that may have systemic consequences, as defined in Section 19 hereof, as determined by the Monetary Board, the maximum deposit insurance cover may be adjusted in such amount, for such a period, and/or for such deposit products, as may be determined by a unanimous vote of the Board of Directors in a meeting called for the purpose and chaired by the Secretary of Finance, subject to the approval of the President of the Philippines.

- h) The term "transfer deposit" means a deposit in an insured cooperative made available to a depositor by the Corporation as payment of insured deposit of such depositor in a closed cooperative and assumed by another insured cooperative.

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

SECTION 9. Assessment of member Cooperative -

- a. The assessment rate shall be determined by the Board of Directors: Provided, That the assessment rate shall not exceed one-fifth (1/5) of one percentum (1%) per annum. The semi-annual assessment for each insured cooperative shall be in the amount of the product of one-half (1/2) the assessment rate multiplied by the assessment base but in no case shall it be less than Three thousand pesos (P3,000.00). The assessment base shall be the amount of the liability of the cooperative for deposits as defined under subsection (f) of section 7 without any deduction for indebtedness of depositors.
- b. The semi-annual assessment base for one semi-annual period shall be the average of the assessment base of the cooperative as of the close of business on March thirty-one and June thirty and the semi-annual assessment base for the other semi-annual period shall be the average of the assessment base or the cooperative savings deposit as of the close of business on September thirty and December thirty-one: Provided, That when any of said days is a non-business day or legal holiday, either national or provincial, the preceding business day shall be used. The certified statements required to be filed with the Corporation under subsections (b) and (c) of this section shall be in such form and set forth such supporting information as the Board of Directors shall prescribe. The assessment payments required from the insured cooperatives under subsections (b) and (c) of this SECTION shall be made in such manner and at such time or times as the Board of Directors shall prescribe, provided the time or times so prescribed shall not be later than sixty

1 (60) days after filing the certified statement setting forth the amount of
2 assessment.

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

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

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

41 f. The Corporation (1) may refund to an insured cooperative any payment
42 of assessment in excess of the amount due to the Corporation or (2) may
43 credit such excess toward the payment of the assessment next

1 becoming due from such cooperative and upon succeeding assessments
2 until the credit is exhausted.

3 g. Any insured cooperative which fails to file any certified statement
4 required to be filed by it in connection with determining the amount of
5 any assessment payable by the cooperative to the Corporation may be
6 compelled to file such statement by mandatory injunction or other
7 appropriate remedy in a suit brought for such purpose by the
8 Corporation against the cooperative and any officer or officers thereof in
9 any court of the Philippines of competent jurisdiction in which such
10 cooperative is located.

11 h. The Corporation, in a suit brought in any court of competent
12 jurisdiction, shall be entitled to recover from any insured cooperative
13 the amount of any unpaid assessment lawfully payable by such insured
14 cooperative to the Corporation, whether or not such cooperative shall
15 have filed any such certified statement and whether or not suit shall
16 have been brought to compel the cooperative to file any such statement.
17 No action or proceeding shall be brought for recovery of any assessment
18 due to the Corporation or for the recovering of any amount paid to the
19 Corporation in excess of the amount due to it, unless such action or
20 proceeding shall have been brought within five years after the right
21 accrued for which the claim is made, except where the insured
22 cooperative has made or filed with the Corporation a false or fraudulent
23 certified statement with the intent to evade, in whole or in part, the
24 payment of assessment, in which case the claim shall not have been
25 deemed to have accrued until the discovery by the Corporation, that the
26 certified statement is false or fraudulent.

27 i. The Corporation shall not terminate the insured status of any
28 cooperative which continues to operate or receive deposits. Should any
29 insured cooperative fail or refuse to pay any assessment required to be
30 paid by such cooperative under any provision of this Act, and should
31 the cooperative not correct such failure or refusal within thirty (30) days
32 after written notice has been given by the Corporation to an officer of
33 the cooperative citing this subsection, and stating that the cooperative
34 has failed or refused to pay as required by the law, the Corporation
35 may, at its discretion, file a case for collection before the appropriate
36 court without prejudice to the imposition of administrative sanctions
37 allowed under the provisions of this Law on the cooperative officials
38 responsible for the non-payment of assessment fees.

39 SECTION 10. ***Sanctions against unsafe and unsound cooperative***
40 ***practices -***

41 a. Whenever upon examination by the Corporation into the condition of
42 any insured cooperative, it shall be disclosed that an insured

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

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

30 SECTION 11. ***Powers, responsibilities and prohibitions -***

- 31 a. The Board of Directors shall administer the affairs of the Corporation
32 fairly and impartially and without discrimination.
- 33 b. The Board of Directors shall appoint examiners who shall have power,
34 on behalf of the Corporation to examine any insured cooperative. Each
35 such examiner shall have the power to make a thorough examination of
36 all the savings of the cooperative and in doing so, he shall have the
37 power to administer oaths, to examine and take and preserve the
38 testimony of any of the officers and agents thereof, and, to compel the
39 presentation of books, documents, papers, or records necessary in his
40 judgment to ascertain the facts relative to the condition of the
41 cooperative; and shall make a full and detailed report of the condition of
42 the cooperative to the Corporation. The Board of Directors in like
43 manner shall appoint claim agents who shall have the power to

1 investigate and examine all claims for insured deposits and transferred
2 deposits. Each claim agent shall have the power to administer oaths
3 and to examine under oath and take and preserve testimony of any
4 person relating to such claim

5 The investigators appointed by the Board of Directors shall have the
6 power on behalf of the Corporation to conduct investigations on frauds,
7 irregularities and anomalies in relation to saving transaction committed
8 in cooperatives, based on reports of examination conducted by the
9 Corporation and Cooperative Development Authority or complaints from
10 depositors or from other government agency. Each investigator shall
11 have the power to administer oaths, and to examine and take and
12 preserve the testimony of any person relating to the subject of
13 investigation.

14 c. Each insured cooperatives shall make to the Corporation reports of
15 condition in such form and at such times as the Board of Directors may
16 require such reports to be published in such manner, not inconsistent
17 with any applicable law, as it may direct. Every such cooperative which
18 fails to make or publish any such report within such time, not less than
19 five days, as the Board of Directors may require, shall be subject to a
20 penalty of not more than P100 for each day of such failure recoverable
21 by the Corporation for its use.

22 d. The Corporation shall have access to reports of examination made by,
23 and reports of condition made to the Cooperative Development
24 Authority or its appropriate supervising agencies.

25 e. Each insured cooperative shall keep and maintain a true and accurate
26 record or statement of its daily deposit transactions consistent with the
27 standards set by the Cooperative Development Authority and the
28 Corporation. Compliance with such standards shall be duly certified by
29 the Chairman/President of the cooperative or the compliance officer:
30 Provided, That refusal or willful failure to issue the required certification
31 shall constitute a violation of this section and shall subject such officers
32 of the cooperative to the sanctions provided for under section 22 (f) of
33 this Act.

34 f. Personnel of the Corporation are hereby prohibited from:

35 1. being an officer, director, consultant, employee or member,
36 directly or indirectly, of any cooperative;

37 2. receiving any gift or thing of value from any officer, director or
38 employee thereof;

39 g. revealing in any manner, except as provided in this Act or under order
40 of the court, information relating to the condition or business of any

1 such cooperative. This prohibition shall not apply to the giving of
2 information to the Board of Directors, the President of the Corporation,
3 Congress, any agency of government authorized by law, or to any person
4 authorized by either of them in writing to receive such information.

5 h. The Corporation shall underwrite or advance litigation costs and
6 expenses, including legal fees and other expenses of external counsel, or
7 provide legal assistance to, directors, officers, employees or agents of the
8 Corporation in connection with any civil, criminal, administrative or any
9 other action or proceeding, to which such director, officer, employee or
10 agent is made a party by reason of, or in connection with, the exercise of
11 authority or performance of functions and duties under this Act:
12 Provided, That such legal protection shall not apply to any civil,
13 criminal, administrative or any action or proceeding that may be
14 initiated by the Corporation, in whatever capacity, against such
15 director, officer, employee or agent: Provided, further, That directors,
16 officers, employees or agents who shall resign, retire, transfer to another
17 agency or be separated from the service, shall continue to be provided
18 with such legal protection in connection with any act done or omitted to
19 be done by them in good faith during their tenure or employment with
20 the Corporation: Provided, finally, That in the event of a settlement or
21 compromise, indemnification shall be provided only in connection with
22 such matters covered by the settlement as to which the Corporation is
23 advised by counsel that the persons to be indemnified did not commit
24 any negligence or misconduct.

25 i. The costs and expenses incurred in defending the aforementioned
26 action, suit or proceeding may be paid by the Corporation in advance of
27 the final disposition of such action, suit or proceeding upon receipt of
28 an undertaking by or on behalf of the director, officer, employee or agent
29 to repay the amount advanced should it ultimately be determined by the
30 Board of Directors that he is not entitled to be indemnified as provided
31 in this subsection.

32 Unless the actions of the Corporation or any of its officers and
33 employees are found to be in willful violation of this Act, performed in
34 bad faith, with malice and/or gross negligence, the Corporation, its
35 directors, officers, employees and agents are held free and harmless to
36 the fullest extent permitted by law from any liability, and they shall be
37 indemnified for any and all liabilities, losses, claims, demands,
38 damages, deficiencies, costs and expenses of whatsoever kind and
39 nature that may arise in connection with the performance of their
40 functions, without prejudice to any criminal liability under existing
41 laws.

42 Legal assistance shall include the grant or advance of reasonable legal
43 fees as determined by the Board of Directors to enable the concerned

1 director, officer, employee or agent to engage counsel of his choice,
2 subject to approval by the Board of Directors.

3 Notwithstanding the provisions of this SECTION and SECTIONs 4 and
4 5, members of the Board of Directors and personnel of the Corporation
5 may become directors and officers of any cooperative in connection with
6 financial assistance extended by the Corporation to such institution and
7 when, in the opinion of the Board, it is appropriate to make such
8 designation to protect the interest of the Corporation.

9 SECTION 12. ***Receivership and liquidation -***

10 a. The provisions of other laws, general or special, to the contrary
11 notwithstanding, whenever it shall be appropriate for the Cooperative
12 Development Authority to appoint a receiver of any cooperative
13 pursuant to existing laws, the Cooperative Development Authority shall
14 give prior notice and appoint the Corporation as receiver.

15 b. The Corporation as receiver shall control, manage and administer the
16 affairs of the closed cooperative. Effective immediately upon takeover as
17 receiver of such cooperative, the powers, functions and duties, as well
18 as all allowances, remunerations and perquisites of the directors,
19 officers, and shareholders of such cooperative are suspended, and the
20 relevant provisions of the Articles of Cooperation and By-laws of the
21 closed cooperative are likewise deemed suspended.

22 c. The assets of the closed cooperative under receivership shall be deemed
23 in custodia legis in the hands of the receiver. From the time the closed
24 cooperative is placed under such receivership, its assets shall not be
25 subject to attachment, garnishment, execution, levy or any other court
26 processes.

27 d. In addition to the powers of a receiver pursuant to existing laws, the
28 Corporation is empowered to:

29 1. bring suits to enforce liabilities to or recoveries of the closed
30 cooperative;

31 2. appoint and hire persons or entities of recognized competence
32 in cooperativism as its deputies and assistants, to perform
33 such powers and functions of the Corporation as receiver or
34 liquidator of the closed cooperative;

35 3. suspend or terminate the employment of officers and
36 employees of the closed cooperative: Provided, that payment of
37 separation pay or benefits shall be made only after the closed
38 cooperative has been placed under liquidation and that such
39 payment shall be made from available funds of the cooperative

1 after deducting reasonable expenses for receivership and
2 liquidation;

3 4. pay accrued utilities, rentals and salaries of personnel of the
4 closed cooperative for a period not exceeding three (3) months,
5 from available funds of the closed cooperative;

6 5. collect loans and other claims of the closed cooperative, and for
7 the purpose, modify, compromise or restructure the terms and
8 conditions of such loans or claims as may be deemed
9 advantageous to the interest of the creditors and claimants of
10 the closed cooperative;

11 6. hire or retain private counsels as may be necessary;

12 7. borrow or obtain a loan, or mortgage, pledge or encumber any
13 asset of the closed cooperative, when necessary to preserve or
14 prevent dissipation of the assets, or to redeem foreclosed
15 assets of the closed cooperative, or to minimize losses to the
16 depositors and creditors;

17 8. if the stipulated interest on deposits is unusually high
18 compared with the prevailing applicable interest rate, the
19 Corporation as receiver may exercise such powers which may
20 include a reduction of the interest rate to a reasonable rate:
21 Provided, that any modification or reduction shall apply only to
22 unpaid interest; and

23 9. exercise such other powers as are inherent and necessary for
24 the effective discharge of the duties of the Corporation as a
25 receiver.

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

29 SECTION 13. **Court fees and other fees** - In all cases or actions filed by
30 the Corporation as receiver for the recovery of, or involving any asset of the closed
31 cooperative, payment of all docket and other court fees shall be free.

32 SECTION 14. **Receivership expenses** - Before any distribution of the assets
33 of the closed cooperative in accordance with the preference established by
34 Philippine Cooperative Code and other laws, the Corporation shall periodically
35 charge against said assets reasonable receivership expenses and subject to
36 approval by the proper court, reasonable liquidation expenses, it has incurred as
37 part of the cost of receivership/liquidation proceedings and collect payment
38 therefore from available assets.

1 After the payment of all liabilities and claims against the closed cooperative,
2 the Corporation shall pay any surplus dividends at the legal rate of interest from
3 date of takeover to date of distribution, to creditors and claimants of the closed
4 cooperative in accordance with legal priority before distribution to the shareholders
5 of the closed cooperative.

6 SECTION 15. **Permanent Insurance Funds** - To carry out the purposes of
7 this Act, the permanent insurance fund shall be Five Hundred million pesos
8 (P500,000,000.00).

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

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

42 SECTION 17. **Subrogation** - The Corporation, upon payment of any
43 depositor, shall be subrogated to all rights of the depositor against the closed

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

10 SECTION 18. ***Determination of insured deposits -***

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

therefor.

- e. Unless otherwise waived by the Corporation, if the depositor in the closed cooperative shall fail to claim his insured deposits with the Corporation within two (2) years from actual takeover of the closed cooperative by the receiver, or does not enforce his claim filed with the corporation within two (2) years after the two-year period to file a claim as mentioned hereinabove, all rights of the depositor against the Corporation with respect to the insured deposit shall be barred; however, all rights of the depositor against the closed cooperative or the receivership estate to which the Corporation may have become subrogated, shall thereupon revert to the depositor. Thereafter, the Corporation shall be discharged from any liability on the insured deposit.

SECTION 19. *Corporate funds and financial assistance* -

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

The authority of the Corporation under the foregoing paragraph to extend financial assistance to, assume liabilities of purchase the assets of an insured cooperative may also be exercised in the case of a closed

1 insured cooperative if the Corporation finds that the resumption of
2 operations of such cooperative is vital to the interests of the community:
3 Provided, That the reopening and resumption of operations of the closed
4 cooperative shall be subject to the prior approval of the Cooperative
5 Development Authority.

6 The Corporation may provide any corporation acquiring control of,
7 merging or consolidating with or acquiring the assets of an insured
8 cooperative danger of closing in order to prevent such closing or of a
9 closed insured cooperative in order to restore to normal operations, with
10 such financial assistance as it could provide an insured cooperative
11 under this subsection: Provided, That, within sixty (60) days from date
12 of assistance the Corporation shall submit a report thereof to the
13 Cooperative Development Authority.

14 The Corporation, prior to the exercise of the powers under this section,
15 shall determine that actual payoff and liquidation thereof will be more
16 expensive than the exercise of this power: Provided, That when the
17 Cooperative Development Authority has determined that there are
18 systemic consequences of a probable failure or closure of an insured
19 cooperative, the Corporation may grant financial assistance to such
20 insured cooperative in such amount as may be necessary to prevent its
21 failure or closure and/or restore the insured cooperative to viable
22 operations, under such terms and conditions as may be deemed
23 necessary by the Board of Directors, subject to concurrence by the
24 Cooperative Development Authority and without additional cost to the
25 Deposit Insurance Fund.

26 SECTION 20. **Authority to borrow** - The Corporation is authorized to
27 borrow from the Bangko Sentral ng Filipinas and the Bangko Sentral is authorized
28 to lend the Corporation on such terms as may be agreed upon by the Corporation
29 and the Bangko Sentral, such funds as in the judgment of the Board of Directors
30 of the Corporation are from time to time required for insurance purposes and
31 financial assistance provided for in SECTION 19(d) of this Act: Provided, That any
32 such loan as may be granted by the Bangko Sentral shall be consistent with
33 monetary policy; Provided, further, That the rate of interest thereon shall be fixed
34 by the Monetary Board but shall not exceed the treasury bill rate.

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

41 SECTION 21. **Reports and audit** -

- 1 a. The Corporation shall annually make a report of its operations to the
2 Congress as soon as practicable after the 1st day of January in each
3 year.
- 4 b. The financial transactions of the Corporation shall be audited by the
5 Commission on Audit in accordance with the principles and procedures
6 applicable to commercial corporate transactions and under such rules
7 and regulations as may be prescribed by the Commission on Audit, the
8 audit shall be conducted at the place or places where accounts of the
9 Corporation are normally kept. Except as to matters relating to the
10 function of the Corporation as receiver which shall be subject to
11 visitorial audit only, the representatives of the Commission on Audit
12 shall have access to all books, accounts, records, reports, files and all
13 other papers, things, or property belonging to or in use by the
14 Corporation pertaining to its financial transactions and necessary to
15 facilitate the audit, and they shall be afforded full facilities for verifying
16 transactions with the balances or securities held by depositories, fiscal
17 agents, and custodians. All such books, accounts, records, reports,
18 files, papers, and property of the Corporation shall remain in possession
19 and custody of the Corporation.
- 20 c. A report of the Audit for each fiscal year ending on June 30 shall be
21 made by the Auditor General to the Congress not later than January 15
22 following the close of such fiscal year. On or before December 15
23 following such fiscal year, the Auditor General shall furnish the
24 Corporation a short form report showing the financial position of the
25 Corporation at the close of fiscal year. The report to the Congress shall
26 set forth the scope of the audit and shall include a statement of assets
27 and liabilities and surplus or deficit; a statement of surplus or deficit
28 analysis; a statement of income and expenses; a statement of sources
29 and application of funds and such comments and information as may
30 be deemed necessary to inform Congress of the financial operations and
31 condition of the Corporation, together with such recommendations with
32 respect thereto as the Auditor General may deem advisable. The report
33 shall also show specifically any program, expenditure, or other financial
34 transactions or undertaking observed in the course of the audit, which
35 in the opinion of the Auditor General, has been carried on or made
36 without authority of law. A copy of each report shall be furnished to the
37 President of the Philippines, to the Governor of the Bangko Sentral ng
38 Pilipinas, and to the Corporation at the time submitted to the Congress.

39 SECTION 22. **Penalties** -

- 40 a. Every insured cooperative shall display at each place of business
41 maintained by it a sign or signs, and shall include a statement in all its
42 advertisements to the effect that its deposits are insured by the
43 Corporation
- 44 b. No insured cooperative shall pay any dividend on its share capital or

1 distribute any of its capital assets while it remains in default in the
2 payment of any assessment due to the Corporation: Provided, that if
3 such default is due to a dispute between the insured cooperative and
4 the Corporation over the amount of such assessment, this subsection
5 shall not apply if such cooperative shall deposit security satisfactory to
6 the Corporation for payment upon final determination of the issue.

7 c. Without prior written consent by the Corporation, no insured
8 cooperative shall (1) merge or consolidate with any cooperative or (2)
9 assume liability to pay any deposits made in, or similar liabilities of, any
10 cooperative or (3) transfer assets to any cooperative in consideration of
11 the assumption of liabilities for any portion of the deposits made in
12 such insured cooperative.

13 d. The Corporation may require an insured cooperative to provide
14 protection and indemnity against burglary, defalcation, losses arising
15 from discharge of duties by, or particular acts of defaults of its directors,
16 officers, or employees, and other similar insurable losses. The Board of
17 Directors in consultation with the Cooperative Development Authority,
18 shall determine the bonding requirement as it refers to directors,
19 officers and employers of the insured cooperative as well as the form
20 and amount of the bond. Whenever any insured cooperative refuses to
21 comply with any such requirement the Corporation may contract for
22 such protection and add the cost thereof to the assessment otherwise
23 payable by such cooperative.

24 e. Any assessment payable by an insured cooperative under this Act shall
25 be subject to payment of interest computed from the date such
26 assessment became due and payable and at the legal rate for loans as
27 prescribed by law or appropriate authority and in case of willful failure
28 or refusal to pay such assessment and interest thereon, there shall be
29 added a penalty equivalent to twice the amount of interest payable as
30 computed herein for each day such violations continue, which the
31 interest and penalty the Corporation may recover for its use: Provided,
32 That the penalty shall not be applicable under the circumstances stated
33 in the provisions of subsection (b) of this section.

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

38 1. for any willful refusal to submit reports as required by law,
39 rules and regulations;

40 2. any unjustified refusal to permit examination and audit of the
41 deposit records or the affairs of the cooperative;

1 3. any willful making of a false statement or entry in any
2 cooperative report or document required by the Corporation;

3 4. submission of false material information in connection with or
4 in relation to any financial assistance of the Corporation
5 extended to the cooperative;

6 5. splitting of deposits or creation of fictitious loans or deposit
7 accounts.

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

20 6. refusal to allow the Corporation to take over a closed
21 cooperative placed under its receivership or obstructing such
22 action of the Corporation;

23 7. refusal to turn over or destroying or tampering cooperative
24 records;

25 8. fraudulent disposal, transfer or concealment of any asset,
26 property or liability of the closed cooperative under the
27 receivership of the Corporation;

28 9. violation of, or causing any person to violate, the exemption
29 from garnishment, levy, attachment or execution.

30 10. any willful failure or refusal to comply with, or violation of any
31 provision of this Act, or commission of any other irregularities,
32 and/or conducting business in an unsafe or unsound manner
33 as may be determined by the Board of Directors.

34 The Board of Directors is hereby authorized to impose administrative fines
35 for any act or omission enumerated in the preceding subsection, and for violation
36 of any order, instruction, rule or regulation issued by the Corporation, against a
37 cooperative and/or any of its directors, officers or agents responsible for such act,
38 omission, or violation, in amounts as it may be determined to be appropriate, but
39 in no case to exceed three times the amount of the damages or costs caused by the

1 transaction for each day that the violation subsists, taking into consideration the
2 attendant circumstances, such as the nature and gravity of the violation or
3 irregularity and the assets of the cooperative.

4 SECTION 23. ***Separability Clause*** - If any provision or SECTION of this Act
5 or the application thereof to any person or circumstances is held invalid, the other
6 provisions or SECTIONs of this Act, in the application of such provision or
7 SECTION to other persons or circumstances, shall not be affected thereby.

8 SECTION 24. ***Repealing Clause*** - All acts or parts of acts and executive
9 orders, administrative orders, or parts thereof which are inconsistent with the
10 provisions of this Act are hereby repealed.

11 SECTION 25. ***Effectivity Clause*** - This Act shall take effect fifteen (15) days
12 following the completion of its publication in the Official Gazette or in two (2)
13 newspapers of general circulation.

Approved,