

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

HOUSE OF REPRESENTATIVES

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17TH CONGRESS
FIRST REGULAR SESSION

HOUSE BILL NO. 2645

Introduced by Representative WES GATCHALIAN

EXPLANATORY NOTE

The cooperative movement in the Philippines had shown its existence as a viable instrument for social and economic development.

Since its introduction in the Philippines in the 1890's, cooperatives have created job opportunities, generated income and empowered the people as voluntary organization thereby contributing to national developments.

It is clear that cooperatives are strong social and economic force. In a study conducted by Professor Jorge V. Sibal of the University of the Philippines, it showed that the combined assets of operating cooperative grew rapidly from P1.05 Billion in 1985 to P176 Billion.

Also, the Philippine Cooperative Code of 2008 provides among others that cooperatives are organized with the aim of encouraging thrift and savings mobilization among its members.

The same is true with other types of cooperatives, particularly Credit Cooperatives and Financial Service Cooperative who were also authorized by law to undertake and engage in savings and loan services.

Along this line, and in response to avow the purpose of encouraging thriftiness and savings mobilization among its members, cooperatives opened their doors to cooperative savings deposit, cooperative banking and financial services which generally provide a wide range of deposit services from kiddie savers program, regular deposits, and even time deposits. Cooperatives succeeded in this endeavour and their stories are inspirations worthy of emulations.

Cooperatives have grown with a total assets of no less than **Two Hundred Forty-Eight Billion, One Hundred Thirty-Nine Million, Five Hundred Forty-One Thousand, One Hundred Pesos and Eighty-three Centavos** (P 248, 139, 541, 100.83) and a total volume of business transactions in the amount of **Three Hundred Thirteen Billion, Eight Hundred Thirty-Five Million, Ninety-Five Thousand, Eighty-Three Pesos, and Four Centavos** (P 313, 835, 095, 083.04) for no less than 24, 652 cooperatives registered as of 2014.

However, while the government encourages thriftiness and savings mobilizations in all cooperatives, mechanisms are not yet in place to protect the interest of the depositors by way of an insurance of all cooperative deposits.

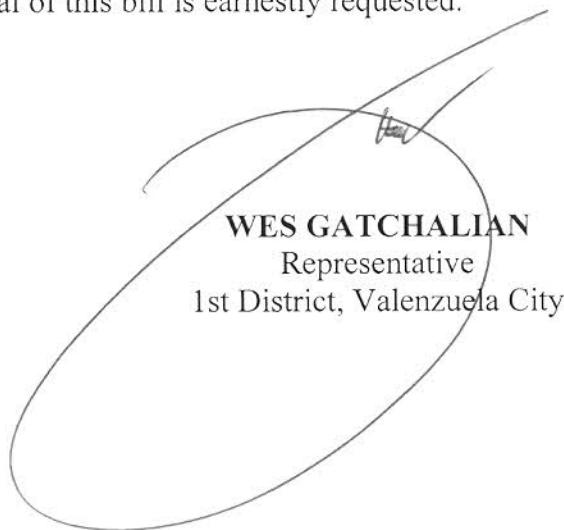
Like bank depositors, cooperative depositors also need protection on their deposits in cases of closure or its officials running away with the cooperative's deposits, hence this legislation.

This bill seeks to establish the **Philippine Cooperative Insurance Corporation** to protect and insure cooperative deposits in the event of closures or unforeseen events.

The bill also provides 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 Php 300,000.00 per cooperative depositors.

And more importantly, the bill will also promote a sound and stable cooperative deposit system and in so doing encourages cooperative deposits and help build public confidence in the cooperatives sector.

Urgent approval of this bill is earnestly requested.



WES GATCHALIAN
Representative
1st District, Valenzuela City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

17th Congress
First Regular Session
HOUSE BILL NO. 2645

Introduced by Representatives 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.

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

Section 1. Short Title – This Act shall be known as the “Cooperative Depositors Protection Act of 2013.”

Section 2. Declaration of Principles and Policies – Section 1, Art. XII of the 1987 Constitution declares that the state shall promote the viability and growth of cooperatives as instruments for social justice and economic development.

Towards this end, the government must extend all means and mechanisms necessary for the Philippine Cooperative Deposit Insurance Corporation to effectively fulfill its vital task of promoting and safeguarding the interests of the depositing public by way of providing permanent and continuing insurance coverage on all insured deposits, and in helping develop a sound and stable cooperative system at all times.

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

Section 4. Powers and Functions - The Corporation shall have the following powers and functions:

- a) To provide a deposit insurance scheme for insured cooperatives and to 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 respectively, to attend such meetings and to vote on behalf of the principal. Whenever the Chairman of the Board is unable to attend a meeting of the Board, or in the event of a

vacancy in the office of the Secretary of Finance, the President of the Corporation shall act as Chairman.

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

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

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

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

The President shall be assisted by a Vice President and other officials whose appointment and removal for cause shall be approved and whose salary shall be fixed by the Board of Directors upon recommendation of the President of the Corporation. During the absence or temporary incapacity of the President, or in case of vacancy or

permanent incapacity and pending the appointment of a new President of the Corporation by the President of the Philippines, the Vice President shall act as President and discharge the duties and responsibilities thereof.

Section 7. Definition of Terms- As used in this Act –

- a. The term "*Board of Directors*" means the Board of Directors of the Corporation.
- b. The term "*Cooperative*" shall be synonymous and interchangeable and shall include other types and categories of cooperatives that encourages and accept savings among its members and the general public.
- c. The term "receiver" includes a receiver, commission, person or other agency charged by law with the duty to take charge of the assets and liabilities of the cooperative which has been forbidden from doing deposit business in the Philippines, as well as the duty to gather, preserve and administer such assets and liabilities for the benefit of the depositors of said cooperative, and to continue into liquidation whenever authorized under this Act or other laws, and to dispose of the assets and to wind up the affairs of such cooperative.
- d. The term "*insured cooperative*" means any cooperative the deposits of which are insured in accordance with the provisions of this Act.
- e. The term "*non-insured cooperative*" means any cooperative the deposits of which are not insured.
- f. The term "*deposit*" means the unpaid balance of money or its equivalent received by a cooperative in the usual course of savings deposit business and for which it has given or is obliged to give credit to a savings, time or thrift account, or issued in accordance with Cooperative Development Authority rules and regulations, R.A.9520 and other applicable laws, together with such other obligations of a cooperative consistent with cooperative principles and practices, the Board of Directors shall determine and prescribe by regulations to be deposit liabilities of the cooperative.

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

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

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

centum (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.

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

- b. On or before the 31st of July of each year, each insured cooperative shall file with the Corporation a certified statement showing for the six months ending on the preceding June thirty the amount of the assessment base and the amount of the semi-annual assessment due to the Corporation for the period ending on the following December thirty-one, determined in accordance with subsection (a) of this Section, which shall contain or be verified by a written declaration that it is made under the penalties of perjury. Each insured cooperative shall pay to the Corporation the amount of the semi-annual assessment it is required to certify. On or before the 31st day of January of each year, each insured cooperative shall file with the Corporation a similar certified statement for the six months ending on the preceding December thirty one and shall pay to the Corporation the amount of the semi-annual assessment for the period ending on the following June thirty which it is required to certify.
- c. Each cooperative which becomes an insured cooperative shall not be required to file any certified statement or pay any assessment for the semi-annual period in which it becomes an insured cooperative. On the expiration of such period, each such cooperative shall comply with the provisions of subsection (b) of this section except that the semi-annual assessment base for its first certified statement shall be the assessment base of the cooperative as of the close of business on the preceding June thirty or December thirty-one, whichever is applicable, determined in accordance with subsection (a) of this section. If such cooperative has assumed the liabilities for deposits of another cooperative, it

shall include such liabilities in its assessment base. The first certified statement shall show as the amount of the first semi-annual assessment due to the Corporation, an amount equal to the product of one-half of the annual assessment rate multiplied by such assessment base.

- d. All assessment collections and income from operations after expenses and charges shall be added to the Deposit Insurance Fund under Section. Such expenses and charges are: (1) the operating costs and expenses of the Corporation for the calendar year; (2) additions to reserve to provide for insurance and financial assistance losses, net of recoverable amounts from applicable assets and collaterals, during the calendar year; and (3) the net insurance and financial assistance losses sustained in said calendar year.
- e. The Corporation (1) may refund to an insured cooperative any payment of assessment in excess of the amount due to the Corporation or (2) may credit such excess toward the payment of the assessment next becoming due from such cooperative and upon succeeding assessments until the credit is exhausted.
- f. Any insured cooperative which fails to file any certified statement required to be filed by it in connection with determining the amount of any assessment payable by the cooperative to the Corporation may be compelled to file such statement by mandatory injunction or other appropriate remedy in a suit brought for such purpose by the Corporation against the cooperative and any officer or officers thereof in any court of the Philippines of competent jurisdiction in which such cooperative is located.
- g. The Corporation, in a suit brought in any court of competent jurisdiction, shall be entitled to recover from any insured cooperative the amount of any unpaid assessment lawfully payable by such insured cooperative to the Corporation, whether or not such cooperative shall have filed any such certified statement and whether or not suit shall have been brought to compel the cooperative to file any such statement. No action or proceeding shall be brought for recovery of any assessment due to the Corporation or for the recovering of any amount paid to the Corporation in excess of the amount due to it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except where the insured cooperative has made or filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of assessment, in which case the claim shall not have been deemed to have accrued until the discovery by the Corporation, that the certified statement is false or fraudulent.
- h. The Corporation shall not terminate the insured status of any cooperative which continues to operate or receive deposits. Should any insured cooperative fail or refuse to pay any assessment required to be paid by such cooperative under any provision of this Act, and should the cooperative not correct such failure or refusal within thirty (30) days after written notice has been given by the Corporation to an officer of the cooperative citing this subsection, and stating that the cooperative has failed or refused to pay as required by the law, the Corporation may, at its discretion, file a case for collection before the appropriate court without prejudice to the imposition of administrative

sanctions allowed under the provisions of this Law on the cooperative officials responsible for the non-payment of assessment fees.

Section 10. Sanctions against unsafe and unsound cooperative practices -

- a. Whenever upon examination by the Corporation into the condition of any insured cooperative, it shall be disclosed that an insured cooperative or its directors or agents have committed, are committing or about to commit unsafe or unsound practices in conducting the savings deposit business of the cooperative or have violated, are violating or about to violate any provisions of any law or regulation to which the insured cooperative is subject, the Board of Directors shall submit the report of the examination to the Cooperative Development Authority to secure corrective action thereon. If no such corrective action is taken by the Cooperative Development Authority within forty-five (45) days from the submission of the report, the Board of Directors shall, *motu proprio*, institute corrective action which it deems necessary. The Board of Directors may thereafter issue a cease and desist order, and require the cooperative or its directors or agents concerned to correct the practices or violations within forty-five (45) days. However, if the practice or violation is likely to cause insolvency or substantial dissipation of assets or earnings of the cooperative, or is likely to seriously weaken the condition of the cooperative or otherwise seriously prejudice the interests of its depositors and the cooperative, the period to take corrective action shall not be more than fifteen (15) days. The order may also include the imposition of fines provided in Section 22 (f) hereof. The Board of Directors shall duly inform the Cooperative Development Authority of action it has taken under this subsection with respect to such practices or violations.
- b. The actions and proceedings provided in the preceding subsection may be undertaken by the Corporation if, in its opinion, an insured cooperative or its directors or agents have violated, are violating or about to violate any provision of this Act or any order, rule or instruction issued by the Corporation or any written condition imposed by the Corporation in connection with any transaction with or grant by the Corporation.

Section 11. Powers, responsibilities and prohibitions -

- a. The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination.
- b. The Board of Directors shall appoint examiners who shall have power, on behalf of the Corporation to examine any insured cooperative. Each such examiner shall have the power to make a thorough examination of all the savings of the cooperative and in doing so, he shall have the power to administer oaths, to examine and take and preserve the testimony of any of the officers and agents thereof, and, to compel the presentation of books, documents, papers, or records necessary in his judgment to ascertain the facts relative to the condition of the cooperative; and shall make a full and detailed

report of the condition of the cooperative to the Corporation. The Board of Directors in like manner shall appoint claim agents who shall have the power to investigate and examine all claims for insured deposits and transferred deposits. Each claim agent shall have the power to administer oaths and to examine under oath and take and preserve testimony of any person relating to such claim

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

- c. Each insured cooperatives shall make to the Corporation reports of condition in such form and at such times as the Board of Directors may require such reports to be published in such manner, not inconsistent with any applicable law, as it may direct. Every such cooperative which fails to make or publish any such report within such time, not less than five days, as the Board of Directors may require, shall be subject to a penalty of not more than P100 for each day of such failure recoverable by the Corporation for its use.
- d. The Corporation shall have access to reports of examination made by, and reports of condition made to the Cooperative Development Authority or its appropriate supervising agencies.
- e. Each insured cooperative shall keep and maintain a true and accurate record or statement of its daily deposit transactions consistent with the standards set by the Cooperative Development Authority and the Corporation. Compliance with such standards shall be duly certified by the chairman/president of the cooperative or the compliance officer: *Provided*, That refusal or willful failure to issue the required certification shall constitute a violation of this Section and shall subject such officers of the cooperative to the sanctions provided for under Section 22 (f) of this Act.
- f. Personnel of the Corporation are hereby prohibited from:
 - 1. being an officer, director, consultant, employee or member, directly or indirectly, of any cooperative;
 - 2. receiving any gift or thing of value from any officer, director or employee thereof;
- g. revealing in any manner, except as provided in this Act or under order of the court, information relating to the condition or business of any such cooperative. This prohibition shall not apply to the giving of information to the Board of Directors, the President of the Corporation, Congress, any agency of government authorized by law, or to any person authorized by either of them in writing to receive such information.

- h. The Corporation shall underwrite or advance litigation costs and expenses, including legal fees and other expenses of external counsel, or provide legal assistance to, directors, officers, employees or agents of the Corporation in connection with any civil, criminal, administrative or any other action or proceeding, to which such director, officer, employee or agent is made a party by reason of, or in connection with, the exercise of authority or performance of functions and duties under this Act: *Provided*, That such legal protection shall not apply to any civil, criminal, administrative or any action or proceeding that may be initiated by the Corporation, in whatever capacity, against such director, officer, employee or agent: *Provided, further*, That directors, officers, employees or agents who shall resign, retire, transfer to another agency or be separated from the service, shall continue to be provided with such legal protection in connection with any act done or omitted to be done by them in good faith during their tenure or employment with the Corporation: *Provided, finally*, That in the event of a settlement or compromise, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Corporation is advised by counsel that the persons to be indemnified did not commit any negligence or misconduct.
 - i. The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay the amount advanced should it ultimately be determined by the Board of Directors that he is not entitled to be indemnified as provided in this subsection.

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

Legal assistance shall include the grant or advance of reasonable legal fees as determined by the Board of Directors to enable the concerned director, officer, employee or agent to engage counsel of his choice, subject to approval by the Board of Directors.

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

Section 12. Receivership and liquidation -

- a. The provisions of other laws, general or special, to the contrary notwithstanding, whenever it shall be appropriate for the Cooperative Development Authority to appoint a receiver of any cooperative pursuant to existing laws, the Cooperative Development Authority shall give prior notice and appoint the Corporation as receiver.
- b. The Corporation as receiver shall control, manage and administer the affairs of the closed cooperative. Effective immediately upon takeover as receiver of such cooperative, the powers, functions and duties, as well as all allowances, remunerations and perquisites of the directors, officers, and shareholders of such cooperative are suspended, and the relevant provisions of the Articles of Cooperation and By-laws of the closed cooperative are likewise deemed suspended.

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

- c. In addition to the powers of a receiver pursuant to existing laws, the Corporation is empowered to:
 1. bring suits to enforce liabilities to or recoveries of the closed cooperative;
 2. appoint and hire persons or entities of recognized competence in cooperativism as its deputies and assistants, to perform such powers and functions of the Corporation as receiver or liquidator of the closed cooperative;
 3. suspend or terminate the employment of officers and employees of the closed cooperative: *Provided*, That payment of separation pay or benefits shall be made only after the closed cooperative has been placed under liquidation and that such payment shall be made from available funds of the cooperative after deducting reasonable expenses for receivership and liquidation;
 4. pay accrued utilities, rentals and salaries of personnel of the closed cooperative for a period not exceeding three (3) months, from available funds of the closed cooperative;
 5. collect loans and other claims of the closed cooperative, and for the purpose, modify, compromise or restructure the terms and conditions of such loans or claims as may be deemed advantageous to the interest of the creditors and claimants of the closed cooperative;
 6. hire or retain private counsels as may be necessary;
 7. borrow or obtain a loan, or mortgage, pledge or encumber any asset of the closed cooperative, when necessary to preserve or

- prevent dissipation of the assets, or to redeem foreclosed assets of the closed cooperative, or to minimize losses to the depositors and creditors;
8. if the stipulated interest on deposits is unusually high compared with the prevailing applicable interest rate, the Corporation as receiver may exercise such powers which may include a reduction of the interest rate to a reasonable rate: *Provided*, That any modification or reduction shall apply only to unpaid interest; and
 9. exercise such other powers as are inherent and necessary for the effective discharge of the duties of the Corporation as a receiver.

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

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

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

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

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

The Deposit Insurance Fund shall be the capital account of the Corporation and shall principally consist of the following: (i) the Permanent Insurance Fund; (ii) assessment collections, subject to the charges enumerated in Section 6 (d); (iii) reserves for insurance and financial assistance losses; and (iv) retained earnings: *Provided*, That the reserves for insurance and financial assistance losses and retained earnings shall be maintained at a reasonable level to ensure capital adequacy: *Provided, further*, That the Corporation may, within two (2) years from the passage of this Act, and every five (5) years thereafter, conduct a study on the need to adjust the amount of the Permanent Insurance Fund, insurance cover, assessment rate and assessment base, and thereafter make the necessary recommendation to Congress. For this purpose, the Corporation

may hire the services of actuarial consultants to determine, among others, the affordability of assessment rates, analysis and evaluation of insurance risk, and advisability of imposing varying assessment rates or insurance cover of different cooperatives.

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

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

Section 18. Determination of insured deposits -

- a. The Corporation shall commence the determination of insured deposits due the depositors of a closed cooperative upon its actual takeover of the closed cooperative. The Corporation shall give notice to the depositors of the closed cooperative of the insured deposits due them by whatever means deemed appropriate by the Board of Directors: *Provided,* That the Corporation shall publish the notice once a week for at least three (3) consecutive weeks in a newspaper of general circulation or, when appropriate, in a newspaper

- circulated in the community or communities where the closed cooperative or its branches are located and post the same in the office of the cooperative.
- b. Payment of an insured deposit to any person by the Corporation shall discharge the Corporation, and payment of transferred deposit to any person by the new cooperative or by an insured cooperative in which a transferred deposit has been made available shall discharge the Corporation and such new cooperative or other insured cooperative, to the same extent that payment to such person by the closed cooperative would have discharged it from liability for the insured deposit.
 - c. Except as otherwise prescribed by the Board of Directors, neither the Corporation nor such other insured cooperative shall be required to recognize as the owner of any portion of a deposit appearing on the records of the closed cooperative under a name other than that of the claimant, any person whose name or interest as such owner is not disclosed on the records of such closed cooperative as part owner of said deposit, if such recognition would increase the aggregate amount of the insured deposits in such closed cooperative.
 - d. The Corporation may withhold payment of such portion of the insured deposit of any depositor in a closed cooperative as may be required to provide for the payment of any liability of such depositor as a shareholder of the closed cooperative, or of any liability of such depositor to the closed cooperative or its receiver, which is not offset against a claim due from such cooperative, pending the determination 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 Pilipinas, 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 insured cooperative if the Corporation finds that the resumption of operations of such cooperative is vital to the interests of the community: Provided, That the reopening and resumption of operations of the closed cooperative shall be subject to the prior approval of the Cooperative Development Authority.

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

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

Section 20. Authority to borrow - The Corporation is authorized to borrow from the *Bangko Sentral ng Pilipinas* and the *Bangko Sentral* is authorized to lend the Corporation on such terms as may be agreed upon by the Corporation and the *Bangko Sentral*, such funds as in the judgment of the Board of Directors of the Corporation are from time to time required for insurance purposes and financial assistance provided for in Section 19(d) of this Act: *Provided*, That any such loan as may be granted by the *Bangko Sentral* shall be consistent with monetary policy; *Provided, further*, That

the rate of interest thereon shall be fixed by the Monetary Board but shall not exceed the treasury bill rate.

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

Section 21. Reports and audit -

- a. The Corporation shall annually make a report of its operations to the Congress as soon as practicable after the 1st day of January in each year.
- b. The financial transactions of the Corporation shall be audited by the Commission on Audit in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Commission on Audit. The audit shall be conducted at the place or places where accounts of the Corporation are normally kept. Except as to matters relating to the function of the Corporation as receiver which shall be subject to visitorial audit only, the representatives of the Commission on Audit shall have access to all books, accounts, records, reports, files and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation.
- c. A report of the Audit for each fiscal year ending on June 30 shall be made by the Auditor General to the Congress not later than January 15 following the close of such fiscal year. On or before December 15 following such fiscal year, the Auditor General shall furnish the Corporation a short form report showing the financial position of the Corporation at the close of fiscal year. The report to the Congress shall set forth the scope of the audit and shall include a statement of assets and liabilities and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expenses; a statement of sources and application of funds and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as the Auditor General may deem advisable. The report shall also show specifically any program, expenditure, or other financial transactions or undertaking observed in the course of the audit, which in the opinion of the Auditor General, has been carried on or made without authority of law. A copy

of each report shall be furnished to the President of the Philippines, to the Governor of the Bangko Sentral ng Pilipinas, and to the Corporation at the time submitted to the Congress.

Section 22. Penalties -

- a. Every insured cooperative shall display at each place of business maintained by it a sign or signs, and shall include a statement in all its advertisements to the effect that its deposits are insured by the Corporation
- b. No insured cooperative shall pay any dividend on its share capital or distribute any of its capital assets while it remains in default in the payment of any assessment due to the Corporation: *Provided*, That if such default is due to a dispute between the insured cooperative and the Corporation over the amount of such assessment, this subsection shall not apply if such cooperative shall deposit security satisfactory to the Corporation for payment upon final determination of the issue.
- c. Without prior written consent by the Corporation, no insured cooperative shall (1) merge or consolidate with any cooperative or (2) assume liability to pay any deposits made in, or similar liabilities of, any cooperative or (3) transfer assets to any cooperative in consideration of the assumption of liabilities for any portion of the deposits made in such insured cooperative.
- d. The Corporation may require an insured cooperative to provide protection and indemnity against burglary, defalcation, losses arising from discharge of duties by, or particular acts of defaults of its directors, officers, or employees, and other similar insurable losses. The Board of Directors in consultation with the Cooperative Development Authority, shall determine the bonding requirement as it refers to directors, officers and employers of the insured cooperative as well as the form and amount of the bond. Whenever any insured cooperative refuses to comply with any such requirement the Corporation may contract for such protection and add the cost thereof to the assessment otherwise payable by such cooperative.
- e. Any assessment payable by an insured cooperative under this Act shall be subject to payment of interest computed from the date such assessment became due and payable and at the legal rate for loans as prescribed by law or appropriate authority and in case of willful failure or refusal to pay such assessment and interest thereon, there shall be added a penalty equivalent to twice the amount of interest payable as computed herein for each day such violations continue, which the interest and penalty the Corporation may recover for its use: *Provided*, That the penalty shall not be applicable under the circumstances stated in the provisions of subsection (b) of this Section.
- f. The penalty of *prision mayor* or a fine of not less than Fifty thousand pesos (P50,000.00) but not more than Two million pesos (P2,000,000.00), or both, at the discretion of the court, shall be imposed upon any director, officer, employee or agent of a cooperative:

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

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

6. refusal to allow the Corporation to take over a closed cooperative placed under its receivership or obstructing such action of the Corporation;
 7. refusal to turn over or destroying or tampering cooperative records;
 8. fraudulent disposal, transfer or concealment of any asset, property or liability of the closed cooperative under the receivership of the Corporation;
 9. violation of, or causing any person to violate, the exemption from garnishment, levy, attachment or execution.
 10. any willful failure or refusal to comply with, or violation of any provision of this Act, or commission of any other irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Board of Directors.
- g. The Board of Directors is hereby authorized to impose administrative fines for any act or omission enumerated in the preceding subsection, and for violation of any order, instruction, rule or regulation issued by the Corporation, against a cooperative and/or any of its directors, officers or agents responsible for such act, omission, or violation, in amounts as it may be determined to be appropriate, but in no case to exceed three times the amount of the damages or costs caused by the transaction for each day that the violation subsists, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the assets of the cooperative.

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

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

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

Adopted,