

PROVIDING FOR THE REGULATION OF TRUST RECEIPTS TRANSACTIONS

PRESIDENTIAL DECREE NO. 115, January 29, 1973

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WHEREAS, the utilization of trust receipts, as a convenient business device to assist importers and merchants solve their financing problems, had gained popular acceptance in international and domestic business practices, particularly in commercial banking transactions;

WHEREAS, there is no specific law in the Philippines that governs trust receipt transactions, especially the rights and obligations of the parties involved therein and the enforcement of the said rights in case of default or violation of the terms of the trust receipt agreement; and

WHEREAS, the recommendations contained in the report on the financial system which have been accepted, with certain modifications by the monetary authorities included, among others, the enactment of a law regulating the trust receipt transactions;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution as Commander-in-Chief of the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, and in order to effect the desired changes and reforms in the social, economic, and political structure of our society, do hereby order and decree and make as part of the law of the land the following:

SECTION 1. Short Title. — This Decree shall be known as the Trust Receipts Law.

SEC. 2. Declaration of Policy. — It is hereby declared to be the policy of the State (a) to encourage and promote the use of the trust receipts as an additional and convenient aid to commerce and trade; (b) to provide for the regulation of trust receipt transactions in order to assure the protection of the rights and the enforcement of obligations of the parties involved therein; and (c) to declare the misuse and/or misappropriation of goods or proceeds realized from the sale of goods, documents or instruments released under trust receipts as a criminal offense punishable under Article Three Hundred and Fifteen of the Revised Penal Code.

SEC. 3. Definition of terms. — As used in this Decree, unless the context otherwise requires, the term —

- (a) "Document" shall mean written or printed evidence of title to goods.
- (b) "Entrustee" shall refer to the person having or taking possession of goods, documents or instruments under a trust receipt transaction, and any successor in interest of such person for the purpose or purposes specified in the trust receipt agreement
- (c) "Entruster" shall refer to the person holding title over the goods, documents, or instruments subject of a trust receipt transaction, and any successor in interest of such person.
- (d) "Goods" shall include chattels and personal property other than: money, things in action, or things so affixed to land as to become a part thereof.
- (e) "Instrument" means any negotiable instrument as defined in the Negotiable Instrument Law; any certificate of stock, or bond or debenture for the payment of money issued by a public or private corporation, or any certificate of deposit, participation certificate or receipt, any credit or investment instrument of a sort marketed

in the ordinary course of business or finance, whereby the trustee, after the issuance of the trust receipt, appears by virtue of possession and the face of the instrument to be the owner. "Instrument" shall not include a document as defined in this Decree.

(f) "Purchase" means taking by sale, conditional sale, lease, mortgage, or pledge, legal or equitable.

(g) "Purchaser" means any person taking by purchase.

(h) "Security Interest" means a property interest in goods, documents or instruments to[^] secure performance of some obligations of the trustee or of some third persons to the entruster and includes title, whether or not expressed to be absolute, whenever such title is in substance taken or retained for security only.

(i) "Person" means, as the case may be, an individual, trustee, receiver, or other fiduciary, partnership, corporation, business trust or other association, and two or more persons having a joint or common interest.

(j) "Trust Receipt" shall refer to the written or printed document signed by the trustee in favor of the entruster containing terms and conditions substantially complying with the provisions of this Decree, No further formality of execution or authentication shall be necessary to die validity of a trust receipt.

(k) "Value" means any consideration sufficient to support a simple contract.

SEC. 4. What constitutes a trust receipt transaction. — A trust receipt transaction, within the meaning of this Decree, is any transaction by and between a person referred to in this Decree as the entruster, and another person referred to in this Decree as the trustee, whereby the entruster, who owns or holds absolute title or security interests over certain specified goods, documents or instruments, releases the same to the possession of the trustee upon the latter's execution and delivery to the entruster of a signed document called a "trust receipt" wherein the trustee binds himself to hold the designated goods, documents or instruments in trust for the entruster and to sell or otherwise dispose of the goods, documents or instruments with the obligation to turn over to the entruster the proceeds thereof to the extent of the amount owing to the entruster or as appears in the trust receipt or the goods, documents or instruments themselves if they are unsold or not otherwise disposed of, in accordance with the terms and conditions specified in the trust receipt, or for other purposes substantially equivalent to any one of the following:

- In the case of goods or documents — (a) to sell the goods or procure their sale; or (b) to manufacture or process the goods with the purpose of ultimate sale: Provided, That, in the case of goods delivered under trust receipt for the purpose of manufacturing or processing before its ultimate sale, the entruster shall retain its title over the goods whether in its original or processed form until the trustee has complied fully with his obligation under the trust receipt; or (c) to load, unload, ship or tranship or otherwise deal with them in a manner preliminary or necessary to their sale; or

- In the case of instruments — (a) to sell or procure their sale or exchange; or (b) to deliver them to a principal; or (c) to effect the consummation of some transactions involving delivery to a depository or register; or (d) to effect their presentation, collection or renewal.

The sale of goods, documents or instruments by a person in the business of selling goods, documents or instruments for profit who, at the outset of the transaction, has, as against the buyer, general property rights in such goods, documents or instruments, or who sells the same to the buyer on credit, retaining title or other interest as security for the payment of the purchase price, does not constitute a trust receipt transaction and is outside the purview and coverage of this Decree.

SEC. 5. Form of trust receipts; contents. — A trust receipt need not be in any particular form, but every such receipt must substantially contain — (1) a description of the goods, documents or instruments subject of the trust receipt; (2) the total invoice value of the goods and the amount of the draft to be paid by the trustee; (3) an undertaking or a commitment of the trustee — (a) to hold in trust for the entruster the goods, documents or instruments therein described; (b) to dispose of them in the manner provided for in the trust receipt; and (c) to turn

over the proceeds of the sale of the goods, documents or instruments to the entruster to the extent of the amount owing to the entruster or as appears in the trust receipt or to return the goods, documents or instruments in the event of their non-sale within the period specified therein.

The trust receipt may contain other terms and conditions agreed upon by the parties in addition to those hereinabove enumerated provided that such terms and conditions shall not be contrary to the provisions of this Decree, any existing laws, public policy or morals, public order or good customs.

SEC. 6. Currency in which a trust receipt may be denominated. — A trust receipt may be denominated in Philippine currency or any foreign currency acceptable and eligible as part of international reserves of the Philippines, the provisions of existing law, executive orders, rules and regulations to the contrary notwithstanding: Provided, however. That in the case of trust receipts denominated 'in foreign currency, payment shall be made in its equivalent in Philippine currency computed at the prevailing exchange rate on the date the proceeds of sale of the goods, documents or instruments held in trust by the entrustee are turned over to the entruster or on such other date as may be stipulated in the trust receipt or other agreements executed between the entruster and the entrustee.

SEC. 7. Rights of the entruster. — The entruster shall be entitled to the proceeds from the sale of the goods, documents or instruments released under a trust receipt to the entrustee to the extent of the amount owing to the entruster or as appears in the trust receipt, or to the return of the goods, documents or instruments in case of non-sale, and to the enforcement of all other rights conferred on him in the trust receipt provided such are not contrary to the provisions of this Decree.

The entruster may cancel the trust and take possession of the goods, documents or instruments subject to the trust or of the proceeds realized therefrom at any time upon default or failure of the entrustee to comply with any of the terms and conditions of the trust receipt or any other agreement between the entruster and the entrustee, and the entruster in possession of the goods, documents or instruments may, on or after default give notice to the entrustee of the intention to sell, and may, not less than five days after serving or sending of such notice, sell the goods, documents or instruments at public or private sale, and the entruster may, at a public sale, become a purchaser. The proceeds of any such sale, whether public or private, shall be applied (a) to the payment of the expenses thereof; (b) to the payment of the expenses of re-taking, keeping and storing the goods, documents or instruments; (c) to the satisfaction of the entrustee's indebtedness to the entruster. The entrustee shall receive any surplus but shall be liable to the entruster for any deficiency. Notice of sale shall be deemed sufficiently given if in writing, and either personally served on the entrustee or sent by post-paid ordinary mail to the entrustee's last known business address.

SEC. 8. Entruster not responsible on sale by entrustee. — The entruster holding a security interest shall not, merely by virtue of such interest or having given the entrustee liberty of sale or other disposition of the goods, documents or instruments under the terms of the trust receipt transaction, be responsible as principal or as vendor under any sale or contract to sell made by the entrustee.

SEC. 9. Obligations of the entrustee. — The entrustee shall (1) hold the goods, documents or instruments in trust for the entruster and shall dispose of them strictly in accordance with the terms and conditions of the trust receipt; (2) receive the proceeds in trust for the entruster and turn over the same to the entruster to the extent of the amount owing to the entruster or as appears on the trust receipt; (3) insure the goods for their total value against loss from fire, theft, pilferage or other casualties; (4) keep said goods or proceeds thereof whether in money or whatever form, separate and capable of identification as property of the entruster; (5) return the goods, documents or instruments in the event of non-sale or upon demand of the entruster; and (6) observe all other terms and conditions of the trust receipt not contrary to the provisions of this Decree.

SEC. 10. Liability of trustee for loss. — The risk of loss shall be borne by the trustee. Loss of goods, documents, or instruments which are the subject of a trust receipt, pending their disposition, irrespective of whether or not it was due to the fault or negligence of the trustee, shall not extinguish his obligation to the entruster for the value thereof.

SEC. 11. Rights of purchaser for value in good faith. — Any purchaser of goods from an trustee with right to sell, or of documents or instruments through their customary form of transfer, who buys the goods, documents, or instruments for value and in good faith from the trustee, acquires said goods, documents, or instruments free from the entruster's security interest.

SEC. 12. Validity of entruster's security interest as against creditors. — The entruster's security interest in goods, documents, or instruments pursuant to the written terms of a trust receipt shall be valid as against all creditors of the trustee for the duration of the trust receipt agreement.

SEC. 13. Penalty clause. — The failure of an trustee to turn over the proceeds of the sale of the goods, documents or instruments covered by a trust receipt to the extent of the amount owing to the entruster or as appears in the trust receipt or to return said goods, documents or instruments if they were not sold or disposed of in accordance with the terms of the trust receipt shall constitute the crime of estafa, punishable under the provisions of Article Three Hundred and Fifteen, Paragraph One (b) of Act Numbered Three Thousand Eight Hundred and Fifteen, as amended, otherwise known as the Revised Penal Code. If the violation or offense is committed by a corporation, partnership, association or other juridical entities, the penalty provided for in this Decree shall be imposed upon the directors, officers, employees or other officials or persons therein responsible for the offense, without prejudice to the civil liabilities arising from the criminal offense.

SEC. 14. Cases not covered by this Decree. — Cases not provided for in this Decree shall be governed by the applicable provisions of existing laws.

SEC. 15. Separability clause. — If any provision or section of this Decree or the application thereof to any person or circumstance is held invalid, the other provisions or sections hereof and the application of such provisions or sections to other persons or circumstances shall not be affected thereby.

SEC. 16. Repealing clause. — All acts inconsistent with this Decree are hereby repealed.

SEC. 17. This Decree shall take effect immediately.

Done in the City of Manila, this 29th day of January, in the year of Our Lord, nineteen hundred and seventy-three.

(Sgd.) FERDINAND E. MARCOS

President

Republic of the Philippines

By the President:

(Sgd.) ALEJANDRO MELCHOR

Executive Secretary

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