

AMENDING CERTAIN SECTIONS OF ACT NUMBERED TWENTY-FOUR HUNDRED AND TWENTY-SEVEN, OTHERWISE KNOWN AS THE INSURANCE ACT, AS AMENDED

PRESIDENTIAL DECREE NO. 63, November 20, 1972

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WHEREAS, it is the policy of the Government to promote and develop a strong national insurance industry and to provide the necessary operating conditions for its integration in the economic and social development of the Philippines;

WHEREAS, in line with this policy, there is a pressing need to ensure the due performance of the contracts concluded by insurance companies doing business in the Philippines; to maintain the liquidity and solvency of such insurance companies to prevent or minimize the outflow of foreign exchange by insuring a balance of external trade; and to coordinate insurance company policy with the investment policy of the Government, having regard to the principles adopted in the monetary, credit and fiscal fields;

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 all 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, do hereby amend certain sections or provisions of Act Numbered Twenty-four hundred and twenty-seven, otherwise known as the Insurance Act, as amended, to wit:

SECTION 1. Section Forty-eight of Act Numbered Twenty-four hundred and twenty-seven, otherwise known as "The Insurance Act," is amended to read as follows:

"SEC. 48. A written instrument, in which a contract of insurance is set forth, is called a policy of insurance.

"The policy shall be in printed form which may contain blank spaces, and any word, phrase or clause necessary to complete a particular contract of insurance shall be typewritten on the blank spaces provided therein.

"Any rider, clause, warranty or endorsement purporting to be part of the contract of insurance and which is pasted or attached to said policy is hereby declared not binding on the insured, unless the descriptive title or name of the rider, clause, warranty or endorsement is also mentioned and typewritten on the blank spaces provided in the policy.

"The Insurance Commission shall promulgate complimentary rules and regulations as will govern the requirements and procedures to be followed in the event policy alterations and amendments are necessary during the currency of an insurance policy."

SEC. 2. Section One hundred seventy-one of the same Act is further amended to read as follows:

"SEC. 171. It shall be the duty of the Insurance Commission to see that all laws relating to insurance and insurance companies are faithfully executed and to perform the duties imposed upon it by this Act.

"It may issue such rulings, instructions and orders as it may deem necessary to secure the enforcement of the provisions of this Act, subject to the approval of the Secretary of Finance.

"Any decision made by the Insurance Commission by virtue of the powers conferred upon it by this Act shall be appealable, unless otherwise specified, to the Secretary of Finance, whose decision shall be final.

"SEC. 171 (A) The Insurance, Commission shall have the power to adjudicate claims and complaints involving any loss, damage or liability for which an insurer may be answerable under any kind of policy or contract of insurance or for which such insurer may be liable under any contract of guaranty or surety ship, including official recognizance, stipulations, bonds and undertakings issued under authority granted pursuant to Act No. 536, as amended by Act No. 2206, where the amount of any such loss, damage or liability being claimed or sued upon any kind of insurance or bond contract does not exceed in any single claim of one hundred thousand pesos (P100,000.00), and any decision, order or ruling rendered by the Insurance Commission after a hearing shall have the force and effect of a judgment.

"The aggrieved party may, within thirty (30) days from receipt, appeal from such decision, order or ruling to the Supreme Court.

"The provisions of Rule 43 of the Rules of Court shall insofar as practicable apply to appeals from the Insurance Commission to the Supreme Court."

SEC. 3. Section One hundred seventy-two of the same Act is further amended to read as follows:

"SEC. 172. After the becoming effective of this Act, no foreign or domestic insurance company shall transact any insurance business in the Philippines until after it shall have obtained a certificate of authority for that purpose from the Insurance Commission upon application therefor and payment by the company concerned of the fees hereinafter prescribed.

"The Insurance Commission may refuse to issue a certificate of authority to any insurance company if, in its judgment, such refusal will best promote the interests of the people of this country. No such certificate of authority shall be granted to any such company until the Insurance Commission shall have satisfied itself by such examination as it may make and such evidence as it may require that such company is qualified by the laws of the Philippines to transact therein the kind or kinds of business applied for. Such certificate of authority shall expire on the last day of June of each year and shall be renewed annually if the company is continuing to comply with all the provisions of this chapter or the circulars, instructions or ruling of the Insurance Commission. Before issuing such certificate of authority, the Insurance Commission must be satisfied that the name of the company is not that of any other known company transacting a similar business, or a name so similar as to be calculated to mislead the public. Every company receiving any such certificate of authority shall be subject to the insurance laws of the Philippines and to the jurisdiction and supervision of the Insurance Commission.

"No insurance company may be authorized to transact in the Philippines the business of life insurance and non-life insurance concurrently: Provided, That an insurance company may accept by way of reinsurance the kind or kinds of business specified in its certificate of authority.

"All properties located in the Philippines shall be insured only with insurance companies duly authorized to do business in the Philippines. Violation of this provision shall subject the assured and/or the officers of the assured corporation to a fine of ten thousand pesos (P10,000.00) and imprisonment of six (6) months."

SEC. 4. Section One hundred seventy-five of the same Act is further amended to read as follows:

"SEC. 175. If the Insurance Commission is of the opinion upon examination or other evidence "that any foreign or domestic insurance company is in an unsound condition, or that it has failed to comply with any provision of law or regulations obligatory upon it, or that in the opinion of the Insurance Commission, its condition or method of business is such as to render its proceedings hazardous to the public or to its policy holder or that its actual assets exclusive of its capital are less than its liabilities, unearned premiums and

reinsurance reserve, the Insurance Commission is authorized to revoke or suspend all certificates of authority granted to such insurance company, its officers or agents, and no new business shall thereafter be done by such company or for such company by its' agents in the Philippines while such revocation, suspension or disability continues or until its authority to do business is resorted by the Insurance Commission.

"The Insurance Commission is further authorized, after giving such opportunity to the company to be heard as it thinks fit, to appoint an administrator to manage the affairs and property of such company.

"The administrator so appointed shall receive from the insurance company concerned such remuneration as the Insurance Commission may direct and the Insurance Commission may at any time cancel the appointment and appoint some other person as administrator.

"The administrator shall continue the management of the business of the insurer with the greatest economy compatible with efficiency and shall, as soon as possible, file with the Insurance Commission a report stating which of the following courses of action is under the circumstances most advantageous to the general interest of the policy holders, namely: (a) the transfer of the business of the insurance company to another insurance company; (b) the continuance of the business by the insurance company; (c) the liquidation of the insurance company; or (d) such other course of action as it deems advisable.

"On the filing of the report with the Insurance Commission, the Insurance Commission may take such action as it thinks fit for promoting the interest of the policyholders in general.

"The administrator may be another insurance company doing business in the Philippines, any officer of such company, or any other competent and qualified person or persons.

"The administrator shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the exercise, or in connection with the exercise, of the powers conferred on the administrator.

"Any order issued by the Insurance Commission under this section shall be binding on all persons, concerned, and shall have effect notwithstanding any provision in the articles of incorporation or by-laws of the insurance company.

"Subject to the provisions of existing law and regulations on the matter, any domestic insurance company may, with the approval of the Insurance Commission consolidate or merge with any other domestic insurance company."

SEC. 5. Section One hundred seventy-five (A) to Section One hundred seventy-five (U), of the same Act, is further amended to read as follows:

"SEC. 175(A). Grounds for Liquidation. — The Insurance Commission shall apply under this Act for an order directing it to liquidate any domestic insurance company or a Philippine branch of a foreign insurance company having security deposits or trusted assets in the country, whenever it finds that the company cannot be permitted to resume business with safety to its policyholders, or to its creditors, or to the public, or, upon the ground that the company has consented to such proceeding through a majority of its directors, stockholders, or members.

"SEC. 175(B). Order of Liquidation: Rights and Liabilities. — An order to liquidate the business of an insurance company shall direct the Insurance Commission to continue in possession, as the case may be, of the property of the company and to liquidate the business of the same and to deal with the property and business of the company in the name of the Insurance Commission or in the name of the company as the Court may direct, and to give notice to all creditors who may have claims against the company to present their claims.

"The Commission shall be vested by operation of law with the title to all of the property, contracts, rights of

action, and all of the books and records of the insurance company as of the date of the entry of the order so directing them to liquidate. The filing or recording of such order in any office where instruments affecting title to property are required to be filed or recorded shall impart the same notice that a deed, contract of sale or other evidence of title duly filed or recorded would have imparted. The rights and liabilities of the company and of its creditors, policyholders, stockholders, members and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date of the entry of the order directing the liquidation of such insurance company in the office of the clerk of court where the company had its principal office for the transaction of business upon the date of the institution of proceedings under this Act. The right of claimants holding contingent claims on said date to share in an insolvent estate shall be determined by this Act.

"The Insurance Commission shall reinsure all the policy obligations of the company in any solvent insurance company authorized to do business, if the unearned premium reserve of such company is sufficient to effect such reinsurance. If such unearned premium reserve is insufficient for the purpose, the Insurance Commission shall reinsure a percentage of each policy of such company outstanding to the extent that its unearned premium reserve may be sufficient for the purpose. No contract of reinsurance shall be entered into by the Insurance Commission except in the pursuance of an order of the court directing the reinsurance and establishing the general form of the contract for the same.

"SEC. 175(C). Grounds for Dissolution of Domestic Insurance Company. —The Insurance Commission may apply under this Act for an order dissolving the corporate existence of a domestic insurance company at any time after an order of liquidation has been granted, or at any time upon the grounds specified in this Act.

"SEC. 175(D). Commencement of a Proceeding. — The Insurance Commission may, the Solicitor-General representing it, commence any proceeding under this Act by an application to the Court of competent jurisdiction, in the Judicial District in which the principal office of the insurance company involved is located, for an order directing such company to show cause why, the Insurance Commission should not have the relief prayed for. On the return of such order to show cause, and after a full hearing, which shall be held by the court without delay such court or judge shall either deny the application or grant the same together with such other relief as the nature of the case and the interest of policyholders, creditors, stockholders, members, and the public may require. All proceedings under this Act shall be given preference in the courts.

"SEC. 175(E). Service of Order to Show Cause. — The order to show cause and the papers upon which the same is made in any proceedings under this Act shall be served upon the insurance company named in such order by delivering them to the president, or other head of the corporation, the secretary or clerk to the corporation, the cashier, the treasurer or a director or managing agent; if it be a voluntary, unincorporated or a joint stock association, order or society, by delivering them to the president, vice-president, treasurer, director, trustee or other officer or a member with managerial powers.

"SEC. 175(F). Injunctions. — Upon application by the Insurance Commission for an order to show cause under this Act, or at any time thereafter, the Court in which such order is made, or any judge thereof may without notice, issue an injunction restraining the company named in the order, its officers, directors, stockholders, members, trustees, agents, servants, employees, policyholders, attorneys, managers, and all other persons from the transaction of its business or the waste or disposition of its property until further order of the court.

"Such court or judge may at any time during a proceeding under this Act issue such other injunctions or orders as may be deemed necessary to prevent interference with the Insurance Commission or the preceding, or waste of the assets of the company, or the prosecution of any action, or the obtaining of preferences, judgments, attachment or other liens, or the making of any levy against the corporation or against its assets or any part thereof.

"SEC. 175(G). Annual Report. — The Insurance Commission shall transmit to the Secretary of Finance in its annual report, the names of all insurance companies proceeded against under this article together with such facts as shall acquaint the policyholders, creditors, stockholders, and the public with all proceedings. To that

end the officer in charge of any such company shall file annually with the Insurance Commission a report of the affairs of such company.

"SEC. 175(H). Appointment of Deputies; Employment of Assistants; Payment of Salaries and Expenses. — For the purpose of this Act, the Insurance Commission shall have the power to appoint under its hand and official seal, one or more officers-in-charge as its agent or agents, and to employ such counsel, clerks and assistants as may be deemed necessary, and to give these persons such powers as may be considered wise.

"The compensation of such officers-in-charge, counsels, clerks and assistants, and all expenses of conducting any proceeding under this Act shall be fixed by the Insurance Commission, subject to the approval of the court, and may, on certificate of the Insurance Commission, be paid out of the funds or assets of such company.

"SEC. 175(I). Examinations; Immunity; Action upon Refusal to be Examined. — At any time during the progress of any proceeding taken under this Act, the Insurance Commission shall have the powers, either by itself or by its duly authorized representatives to subpoena witnesses, to compel their attendance, to administer oaths, and to examine any person under oath, and in connection therewith to require the production of any books or papers relevant to the inquiry. If a person subpoenaed to attend such inquiry fails to obey to the command of a subpoena without reasonable excuse, or if a person in attendance upon such inquiry, shall, without reasonable cause, refuse to be sworn, or to be examined, or to answer a question, or to produce a book or papers when ordered to do so by the officer duly conducting such inquiry, or if a corporation, association, partnership, or individual fails to perform any act required hereunder to be performed, he shall be required by the court to comply with the order of the officer duly conducting such inquiry.

"If any person shall ask to be excused from testifying or producing any book or paper or other document before the Insurance Commission or before any person duly designated by it to conduct any such investigation upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him to or degrade him to subject him to a penalty or forfeiture, and shall notwithstanding be directed by the Insurance Commission or by the person duly designated by the Insurance Commission to conduct any such inquiry to testify or to produce any book, paper or document, he must nonetheless comply with such direction but in such event he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce, documentary or otherwise, pursuant thereto and no testimony so given or produced shall be received against him upon any criminal action, suit or proceeding, investigation or inquiry. No person testifying shall be exempt from prosecution or punishment for any perjury or other false statement committed or made by him in his testimony given as herein provided for.

"SEC. 175(J). Exemption from Filing Fees. — The Insurance Commission shall not be required to pay fee to any public officer for filing, recording, or in any manner authenticating any paper or instrument relating to any proceeding under this Act.

"SEC. 175(K). Deposit of Monies Collected: Preference. — The monies collected by the Commission in a proceeding under this Act, shall be, from time to time, deposited in one or more banks, savings banks, or trust companies authorized by the Central Bank of the Philippines to do business in the Philippines.

"SEC. 175(L). Voidable Transfer. — Any transfer of, or lien upon, the property of an insurance company made or created within four months prior to the granting of an order to show cause under this Act, with the intent of giving to any creditor or of enabling him to obtain greater percentage of his debt than any other creditor of the same class which is accepted by such creditor having reasonable cause to believe that such preference will occur, shall be voidable.

"The Insurance Commission as liquidator may avoid any transfer or lien upon the property of an insurance company which any creditor, stockholder or member of the company might have avoided and may recover the property so transferred or its value from the person to whom it was transferred unless he was a bona fide holder

for value prior to the date of the entry of the order of liquidation. The property may be recovered or its value collected from whomever may have received it except a bona fide holder for value.

"SEC. 175(M). Priority of Claims for Wages. — All wages actually owing to clerical employees of the insurance company against whom a proceeding under this Act is commenced, for services rendered within three months prior to the commencement of such proceedings, not exceeding one thousand five hundred pesos to each employee, shall be paid prior to the payment of every other debt or claim, and in the discretion of the Insurance Commission may be paid as soon as possible after the proceeding has been commenced. At all times, sufficient funds shall be reserved for the expenses of administration.

"SEC. 175(N). Offset. — In all cases of mutual debts or mutual credits between the insurance company and another person, such credits and debts shall be offset and the balance only shall be allowed or paid.

"No offset shall be allowed in favor of any such person, however, where (a) the obligation of the company to such person would not then entitle him to share as a claimant in the assets of such insurance company, or (b) the obligation of the company to such person was purchased by or transferred to such person with a view of its being used as an offset, or (c) the obligation of such person is to pay an assessment levied against the members of a mutual insurance company or to pay a balance upon a subscription to the capital stock of a stock insurance corporation.

"SEC. 175(O). Sale or Other Disposition of Assets and Compromise Claims. — The Insurance Commission may, subject to the approval of the Court, (a) sell or otherwise dispose of the real and personal property, or any part thereof, of the insurance company against whom a proceeding has been brought under this Act and (b) sell or compound all doubtful or uncollectible debts or claim owned by or owing to such company provided that whenever the amount of such debt or claim owned by or owing to such company does not exceed one thousand pesos, the Insurance Commission may compromise or compound the same upon such terms as it may deem for the best interest of said company without obtaining the approval of the Court.

"SEC. 175(P). Borrowing on the Pledge of Assets. — For the purpose of facilitating the liquidation provided for by this Act the Insurance Commission may, subject to the approval of the Court, borrow money and execute, acknowledge and deliver notes or other evidence of indebtedness therefor and secure the repayments of same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property, whether real, personal or mixed, of the company against whom a proceeding has been brought under this Act and the Insurance Commission, subject to the approval of the Court, shall have power to take any and all other action necessary and proper to consummate any such loans and to provide for the repayment thereof.

"SEC. 175(Q). Time to File Claims Against Insolvent Insurance Company. — Upon the granting of an order for the liquidation of an insurance company, the Court shall after such notice and hearing, as it deems proper, make an order declaring such company to be insolvent. Thereupon, regardless of any prior notice which may have been given to creditors, the Insurance Commission shall notify all persons who may have claims against such company and who have not filed proper proofs thereof, to present the same to him at a place specified in such notice within four months or some longer time in the discretion of the Court, if the Insurance Commission shall certify that it is necessary, and not otherwise, from the date of the entry of such order. The last day for the filing of proofs of claim shall be specified in the notice. The notice shall be given in a manner determined by the Court.

"Proofs of claim may be filed subsequent to the date specified but, no such claim shall share in the distribution of the assets until all allowed claims, proofs of which have been filed before said date, have been paid in full with interest.

"SEC. 175(R). Proof and Allowance of Claims. — A proof of claim shall consist of a statement under oath, in writing, signed by the claimant, setting forth the claim, the consideration thereof, and whether any, and if so, what payments have been made thereon, and that the sum claimed is justly owing from the company to the

claimant. Whenever a claim is founded upon an instrument in writing such instrument, unless lost shall be filed with the proof of claim. If such instrument is lost or destroyed, a statement of such fact and of the circumstances of loss or destruction shall be filed under oath with the claim.

"Upon the liquidation of any insurance companies which has issued policies insuring the lives of persons, the Insurance Commission shall, within thirty days after the last day set for filing of claims, make a list of the persons who have not filed proofs of claims with the Insurance Commission, to whom it appears to its entire satisfaction from the books of the company, there are owing amounts on such policies and the Insurance Commission shall set opposite the name of each person the amount so owing to such person. Each person whose name shall appear upon the list shall be deemed to have duly filed prior to the last day set for the filing of claims a proof of claim for the amount set opposite his name of said list.

"No contingent claim shall share in a distribution of the assets of the company which has been adjudicated to be insolvent except that such claims shall be considered, if properly presented, and may be allowed to share where (1) such claim becomes absolute against the company on or before the last day fixed for the filing of proofs of claim against the assets of such company, or (2) there is a surplus and the liquidation is thereafter conducted upon the basis that such company is solvent.

"Where an insurance company has been adjudicated to be insolvent, any person who has a cause of action against an assured of such company, which the subject of indemnity under a liability policy issued by such company, shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be allowed; provided (1) that it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such company; (2) that such person shall furnish suitable proof that no further valid claims against such company arising out of his cause of action other than those already presented can be made unless for good cause shown the Court in which the proceeding is pending shall otherwise direct; (3) that the total liability of such company to all claimants arising out of the same act of its assured shall be no greater than the total liability would be were it not in liquidation; (4) that no judgment taken by default or by collusion, against such an assured shall be considered as evidence in the liquidation proceeding either of the liability of such assured to such person upon such cause of action or of the amount of damages to which such person is therein entitled.

"No claim of any secured claimant shall be allowed at a sum greater than the difference between the value of the security and the amount for which the claim is allowed, unless the claimant shall surrender his security to the Insurance Commission in which event the claim shall be allowed in the full amount for which it is valued.

"SEC. 175(S). Distribution of Assets; Priorities; Unclaimed Dividends. — At any time after the last day fixed for filing of proofs of claim in the liquidation of an insurance company, the Court may, upon the application of the Insurance Commission, authorize it to declaim out of the funds remaining in its hands after the payment of expenses one or more dividends. Such order shall specify what claims, if any, are entitled to priority of payment and shall direct the manner in which dividends shall be paid. Where there has been no adjudication of insolvency, the Insurance Commission shall pay all allowed claims in full and shall distribute the balance of the assets remaining in his hands in accordance with the direction of the Court.

"Dividends remaining unclaimed or unpaid in the hands of the Insurance Commission for six months after the final order of distribution may be deposited in one or more banks, trust companies or savings banks authorized by the Central Bank of the Philippines to do business in the Philippines to the credit of the Insurance Commission, in trust for the person entitled thereto. All these deposits shall be entitled to priority of payment in case of the insolvency or voluntary liquidation of the depository on an equality with any other priority given by the General Banking Act.

"SEC. 175(T). The Insurance Commission or its representative duly designated or appointed under this Act shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or

omitted to be done in good faith in the exercise, or in connection with the exercise, of the powers conferred on the Insurance Commission or its aforesaid representative."

SEC. 6. Section One hundred seventy-eight of the same Act is further amended to read as follows:

"SEC. 178. No foreign insurance company shall engage in business in the Philippines unless possessed of paid up unimpaired capital or assets and reserve not less than that herein required of domestic insurance companies; and no insurance company organized or existing under the government or laws other than those of the Philippines shall engage in business in the Philippines until it shall have deposited with the Insurance Commission for the benefit and security of its policyholders and creditors in the Philippines, securities satisfactory to the Insurance Commission consisting of good securities of the Philippines, including new issues of stock of registered enterprises as this term is defined in the Investment Incentives Act, to the actual market value of not less than the minimum paid-up capital required of domestic insurance companies: Provided, That at least fifty per centum of such securities shall consist of bonds or other evidences of debt of the Government of the Philippines, its political subdivisions and instrumentalities, or of government-owned or controlled corporations and entities, including the Central Bank. The total investment of a foreign insurance company in any registered enterprise shall not exceed fifteen per centum (15%) of the capital of said investor nor twenty per centum (20%) of the capital of the registered enterprise, unless previously authorized in writing by the Insurance Commission. Foreign insurance companies already doing business in the Philippines on the date this Amendatory Act becomes effective shall comply with the requirement increasing their respective deposits as provided in this Act not later than June thirty, nineteen hundred and seventy-three."

SEC. 7. Section One hundred seventy-eight (A) of the same Act is further amended to read as follows:

"SEC. 178 (A). Every foreign company doing business in the Philippines shall set aside at least sixty per centum of the legal reserves of the policies written in the Philippines and invest and keep the same therein in accordance with the provisions of this section. Foreign insurance companies doing business in the Philippines shall comply with this requirement not later than June thirty, nineteen hundred and seventy-three. The legal reserve herein required to be set aside shall be invested only in the classes of Philippine securities described in Section Two Hundred of the Insurance Act, as amended: Provided, however, That no investment in stocks or bonds of any single entity shall, in the aggregate exceed fifteen per centum of the capital of the investing company or twenty per centum of the capital of the issuing company, whichever is the lesser, unless otherwise approved in writing by the Insurance Commission: Provided, further, That in determining the amount to be invested and kept in the Philippines under this section, a company shall be given credit for the amount of securities deposited by such company under section one hundred and seventy-eight of this Act, as amended. The securities purchased and kept in the Philippines under this Section, shall not be sent out of the territorial jurisdiction of the Philippines without the written consent of the Insurance Commission."

SEC. 8. Section One hundred and eighty of the same Act is further amended to read as follows:

"SEC. 180. Every insurance company doing business in the Philippines shall terminate its fiscal period on the thirty-first day of December every year and shall annually on or before the thirtieth day of April of its year render to the Insurance Commission a statement signed and sworn to by the chief officer of such company showing, in such form and detail as may be prescribed by the Insurance Commission, the exact condition of its affair on the preceding thirty-first day of December.

"For the filing of the annual statement, the Insurance Commission shall collect and receive from all insurance companies doing business in the Philippines a fee of twenty five pesos: Provided, That a fine of one hundred pesos shall be imposed and collected by the Insurance Commission for each week of delay, or any fraction thereof, in the filing of the annual statement."

SEC. 9. Section One hundred eighty-one of the same Act is amended to read as follows:

"SEC. 181. Immediately upon approval of the annual statements by the Insurance Commission, every insurance company doing business in the Philippines shall publish in two newspapers of general circulation in the City of Manila, one published in English and one in Pilipino, a full synopsis of its annual financial statements showing fully the condition of its business, and setting forth its resources and liabilities."

SEC. 10. Section One hundred eighty-four of the same Act, as amended, is further amended by adding thereto paragraph (k) to read as follows:

"* * * (k). A provision that all claims under the policy, whether for living, death or any other benefits shall, if payable, be paid to the insured or the beneficiary, as the case may be: Provided. That should the beneficiary be a minor irrevocably designated, a judicial guardian for such minor need not be appointed if the amount of the policy does not exceed twenty thousand pesos."

SEC. 11. Section One hundred eighty-four (A) of the same Act, as amended, is further amended to read as follows:

"SEC. 184(A). The term 'Industrial life insurance' as used in this Act shall mean that form of life insurance either (a) under which the premiums are payable weekly or (b) under which the premiums are payable monthly or oftener, but less often than weekly, if the face amount of insurance provided in any policy is three thousand pesos or less and if the words 'industrial policy' are printed upon the policy as part of the descriptive matter."

SEC. 12. Section One hundred eighty-four (D) of the same Act, as amended, is further amended to read as follows:

"SEC. 184 (D). Variable contract may be issued on the industrial life basis, provided that the pertinent provisions of this Act governing variable contracts are complied with in connection with such contracts."

SEC. 13. Section One hundred eighty-five of the same Act is further amended by adding a new section to be known as Section One hundred eighty-five (A) to read as follows:

"SEC. 185(A). Variable Contracts. 1. Definitions. — When used in this Act, the term Variable contract shall mean any policy or contract on either a group or on an individual basis issued by an insurance company providing for benefits or other contractual payments or values thereunder to vary so as to reflect investment results of any segregated portfolio of investments or of a designated separate account in which amounts received in connection with such contracts shall have been placed and accounted for separately and apart from other investments and accounts. This contract may also provide benefits or values incidental thereto payable in fixed or variable amounts, or both. It shall not be deemed to be a "security" or "securities" as defined in Commonwealth Act Numbered Eighty-three (Securities Act), or in Republic Act Numbered Twenty-six hundred and twenty-nine (Investment Company Act), nor subject to regulation under said Acts.

"2. Qualification of Insurers. — No domestic insurance company shall issue, deliver or use any variable contract, and no foreign insurance company authorized to transact business in the Philippines, shall issue, deliver or sell any variable contract in the Philippines, unless and until such company shall have satisfied the Insurance Commission that its financial and general condition and its methods of operation, including the issue and sale of variable contracts, are not and will not be hazardous to the public or to its policy and contract owners. No foreign insurance company shall issue, deliver or sell any variable contract in the Philippines unless authorized to do so by the laws of its domicile. In determining the qualifications of a company requesting authority to issue, deliver or use variable contracts, the Insurance Commission shall always consider the following:

"(a) the history, financial and general condition of the company: Provided, That such company, if a domestic company must have a paid-up capital of not less than Two Million Pesos and an unassigned surplus of One Million Pesos, and, in case of a foreign company, must have deposited with the Insurance Commission for

the-benefit and security of its variable contract owners in the Philippines, securities satisfactory to the Insurance Commission consisting of bonds of the Government of the Philippines or its instrumentalities with an actual market value of Two Million Pesos;

"(b) the character, responsibility and fitness of the officers and directors of the company; and

"(c) the law and regulation under which the company is authorized in the state of domicile to issue such contracts.

"If after notice and hearing, the Insurance Commission shall find that the company is qualified to issue, deliver and use variable contracts in accordance with this Act and the regulations and rules issued thereunder, the corresponding order of authorization shall be issued. Any decision or order denying authority to issue, sell or deliver variable contracts shall clearly and distinctly state the reasons and grounds on which it is based.

"The decision or order of the Insurance Commission by virtue of the provision of this Act shall be appealable to the Secretary of Finance, whose decision shall be final.

"3. Contracts Shall Contain Certain Provisions. — (a) Every variable contract delivered or issued for delivery in the Philippines and every certificate evidencing variable benefits issued pursuant to any such contracts on a group basis, shall contain a statement of the essential features of the procedures to be followed by the issuing company in determining the amount of variable benefits or other contractual payments or values thereunder and shall state in clear terms that such amounts may decrease or increase according to such procedure. Every such contract delivered or issued for delivery in the Philippines, and every such certificate, shall contain on its first page, in a prominent position, a clear statement that the benefits or other contractual payments or values thereunder are on a variable basis.

"(a) Every individual variable contract delivered or issued for delivery shall stipulate the method of determining the variations in the amount of variable benefits or other contractual payments or values thereunder due to variations in investment and experience, and shall guarantee that the expenses and mortality results shall not adversely affect such amounts;

"(b) Every individual variable contract delivered or issued for delivery shall contain in substance the following provisions or other provisions more favorable or at least as favorable to the contract owner and approved by the Insurance Commission:

"(i) That, in the event of default in the payment of any consideration beyond the period of grace allowed by the contractor the payment thereof, the company will make payment of the value of the contract, as determined thereunder, in accordance with a plan provided by the contract or agreed upon by the contract owner and the company, such payments to commence not later than the date contractual payments were otherwise to have commenced in accordance with the contract;

"(ii) That, upon written request of the contract owner and surrender of the contract, the company will make payment of the value of the contract, as determined thereunder, in accordance with a plan provided by the contract and selected by the contract owner or agreed upon by the contract owner and the company;

(iii) That, the company will mail to the contract owner not less than semi-annually after the first contract year, a report in a form approved by the Insurance Commission which shall include a statement of the number of units of uniform value credited to such contract and the value of each such unit as of a date not more than four (4) months previous to the date of mailing, and a statement in a form and as of a date approved by the Insurance Commission, of the investments held in the segregated portfolio or portfolio of investments or separate account or accounts designated in such contract;

"(c) Every group variable contract delivered or issued for delivery shall stipulate the method of determining the

variations in the amount payable with respect to a unit of variable benefits purchased thereunder due to variations in investment experience, and shall guarantee that expense and mortality results shall not adversely affect such amounts.

"4. Optional Fixed Benefit, and Payments. — Any insurance company issuing variable contracts pursuant to this Act may in its discretion issue contracts providing a combination of fixed amount and variable amount of benefits and for optional lump-sum of benefits.

"5. Approval Requirement. — Every variable contract form delivered or issued for delivery in the Philippines, and every certificate form evidencing variable benefits issued pursuant to any such contract on a group basis, and the application, rider and endorsement forms applicable thereto and used in connection therewith, shall be and are hereby expressly made subject to the approval requirements of Section One hundred eighty-four of this Act.

"6. Certain Illustrations Prohibited. — Illustration of benefits payable under any variable contract shall not include or involve projections of past investment experience into the future and shall conform with the rules and regulations promulgated by the Insurance Commission.

"7. Separate Accounts and Operation of Same. — Every insurance company authorized pursuant to this section to issue, deliver or use variable contracts shall, in connection with same, establish one or more separate accounts to be known as separate variable accounts. All amounts received by the company in connection with any such contract which are required by the terms thereof, to be allocated or applied to one or more designated separate variable accounts shall be placed in such designated account or accounts. The assets and liabilities of each such separate variable account shall at all times be clearly identifiable and distinguishable from the assets and liabilities in all other accounts of the company. Notwithstanding any provision of law to the contrary, the assets held in any such separate variable account shall not be chargeable with liabilities arising out of any other business the company may conduct but shall be held and applied exclusively for the benefit of the owners or beneficiaries of the variable contracts applicable thereto. In the event of the insolvency of the company, the assets of each such separate variable account shall be applied to the contractual claims of the owners or beneficiaries of the variable contracts applicable thereto. Except as otherwise specifically provided by the contract, no sale, exchange, or other transfer of assets may be made by a company, between any of its separate accounts, or between any other investment account and one or more of its separate accounts, unless, in the case of a transfer into separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, or in case of a transfer from a separate account, such transfer would not cause the remaining assets of the account to become less than the reserves and other contract liabilities with respect to such separate account. Such transfer, whether into or from a separate account, shall be made by a transfer of cash, or by a transfer of securities having a valuation which could be readily determined in the market place, provided that such transfer of securities is approved by the Insurance Commission. The Insurance Commission may authorize other transfers among such accounts, if, in its opinion, such transfers would not be inequitable. All amounts and assets allocated to any such separate variable account shall be owned by the company and with respect to same the company shall not be nor hold itself out to be a trustee.

"8. Investment of Separate Account Funds. — Any insurance company which has established one or more separate variable accounts pursuant to this Act may invest and reinvest all or any part of the assets allocated to any such account in the securities and investments authorized by Section 197, Section 200 and Section 200 (A) of this Act for any of the funds of an insurance company, free and clear of any and all limitations and restrictions in such sections. In addition thereto such company may also invest in common capital stocks or other equities which are listed on or admitted to trading in a securities exchange located in the Philippines, or which are publicly held and traded in the 'over-the-counter market' as defined by the Insurance Commission and as to which market quotations

have been available: Provided, however, That no such company shall invest in excess of ten per centum of the assets of any such separate variable account in any one corporation issuing such common capital stock. The assets and investments of such separate variable accounts shall not be taken into account in applying the quantitative investment limitations applicable to other investments of the company. In the purchase of common capital stock or other equities, the insurer shall designate to the broker, or to the seller if the purchase is not made through a broker, the specific variable account for which the investment is made.

"9. Valuation of Assets. — Assets allocated to any separate variable account shall be valued at their market value on the date of any valuation, or if there is no readily available market then in accordance with the terms of the variable contract applicable to such assets, or if there are no such contract terms then in such manner as may be prescribed by the rules and regulations of the Insurance Commission.

"10. Reserve Liability. — The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and shall be approved by the Insurance Commission.

"11. Separate Annual Statements. — Every insurance company authorized pursuant to this section to issue, deliver or use variable contracts shall annually file with the Insurance Commission separate annual statement of its separate variable accounts. Such statement shall be on a form prescribed or approved by the Insurance Commission and shall include details as to all of the income, disbursements, assets and liability items of and associated with the said separate variable accounts. Said statement shall be under oath of two officers of the company and shall be filed simultaneously with the annual statement required by Section one hundred eighty of this Act.

"12. Variable Contract Agents Licenses. — Any provision of existing laws to the contrary notwithstanding, no person shall, within the Philippines, sell or offer for sale a variable contract or do or perform any act or thing in the sale, negotiation, making or consummating of any variable contract other than for himself unless such person shall have a valid and current certificate from the Insurance Commission authorizing such person to act as a variable contract agent. No such certificate shall be issued unless and until the said Commission is satisfied, after examination that such person is by training, knowledge, ability and character qualified to act as such agent. Any such certificate may be withdrawn and cancelled by said Commission after notice and hearing, if it shall find that the holder thereof does not then have the qualifications required for the issuance of such certificate.

"13. Rules and Regulations. — Any existing laws to the contrary notwithstanding, the Insurance Commission shall have sole and exclusive authority to regulate the issuance and sale of contracts on a variable basis and to provide for licensing of persons selling such contracts, and to issue such reasonable rules and regulations as may be appropriate to carry out the provisions of this Act."

SEC. 14. Section One hundred ninety-two of the same Act is further amended to read as follows:

"SEC. 192. It shall be unlawful for any person, company, or corporation in the Philippines either to procure, receive or forward applications for insurance in or to issue, or to deliver or accept policies of or for any company or companies not having been legally authorized to transact business in the Philippines, as provided in this Chapter; and any such person, company, or corporation violating the provisions of this section shall be deemed guilty of a penal offense, and upon conviction thereof, shall for each such offense, be punished by a fine of ten thousand pesos (P10,000.00) and imprisonment of six months : Provided, That the provisions of this section shall not apply to reinsurance: And Provided, further, That every insurance company doing business in the Philippines shall reinsure with insurance or reinsurance companies likewise doing business in the Philippines such percentage of the sum assured on its policy as may be specified by the Insurance Commission in a circular duly approved by the Secretary of Finance. The circular shall specify the percentage of the sum

assured on each policy to be reinsured: Provided, That different percentage may be specified for different classes of business: And provided, further, That the proportions in which the percentage shall be allocated among the assuming insurance or reinsurance companies may also be specified in said circular."

SEC. 15. Section One hundred ninety-five of the same Act is further amended to read as follows:

"SEC. 195. No domestic insurance company shall, if a stock corporation, engage in business in the Philippines unless possessed of a paid-up capital stock equal to at least two million pesos: Provided, however, That the Secretary of Finance may, upon recommendation of the Insurance Commission, increase such minimum paid-up capital stock, under such terms and conditions as he may impose, to an amount which, in his opinion, would be sufficient to reasonably assure the solvency of the company and the safety of the interests of the people of this country: Provided, That a domestic insurance company already doing business in the Philippines with a paid-up capital which is less than that herein prescribed shall comply with the requirement increasing its paid-up capital not later than December thirty-one, nineteen hundred seventy-three: Provided, further, That the Secretary of Finance, upon recommendation of the Insurance Commission, may, in addition to the paid-up capital stock, require the stockholders to pay in cash to the company in proportion to their subscription interests a contributed surplus fund of not less than one million pesos, in the case of a life insurance company, or not less than five hundred thousand pesos, in the case of an insurance company other than life. If organized as a mutual company, in lieu of such capital stock, it must have available cash assets of at least one million pesos above all liabilities for losses reported, expenses, taxes, legal reserve, and reinsurance of all outstanding risks, and the contributed surplus fund equal to the amounts required of stock corporations: Provided, That a stock insurance company doing business in the Philippines may, subject to the pertinent laws and regulations which now are or hereafter may be in force, alter its organization and transform itself into a mutual insurance company.

"Whenever its paid-up capital, if it be a stock corporation, or its reserve, if it be a mutual corporation, shall upon an examination made pursuant to Section one hundred and seventy four of this Act be found to be impaired, the Insurance Commission shall forthwith direct the company to make good any such deficiency or impairment by cash, to be contributed by all stockholders of record in proportion to their respective interests and paid to the treasurer of the company, within fifteen days from receipt of the order: Provided, That the Insurance Commission, may in its discretion, extend the period to not more than sixty days upon its being satisfied of the good faith of the stockholders in complying with its order: And provided, further, That the company in the interim shall not be permitted to take any new risks of any kind or character unless and until it makes good the deficiency or impairment.

"The amount constituting the contributed surplus fund of any domestic insurance company, whether paid to make good any deficiency or impairment, or as a complement of the paid-up capital stock, or for any other purpose, shall not at any time be withdrawn and repaid in cash to the contributing stockholders without the prior approval of the Insurance Commission.

"Any officer, official or director of the corporation taking or authorizing the taking of any risk for the corporation in violation of the terms of this section shall be punished by imprisonment for not less than one year nor more than five years and by a fine of not less than one thousand nor more than five thousand pesos."

SEC. 16. Section Two hundred (A) of the same Act is further amended by adding a new section to be known as Section Two hundred (B) to read as follows:

"SEC. 200 (B). 1. Before investing any of its funds in any other classes of securities or types or investments, every domestic insurance company shall, to the extent of an amount equal in value to fifty per centum (50%) of the minimum paid-up capital required under Section one hundred ninety-five of this Act, invest its funds only in bonds or other evidences of debt of the Government of the Philippines or its political subdivisions or instrumentalities, or of government-owned or controlled corporations and entities, including the Central Bank

of the Philippines,

"2. After satisfying the requirements contained in the preceding paragraph, any domestic non-life insurance company, may invest to an amount prescribed below its funds in, or otherwise, acquire or loan upon, only the classes of investments described in Section Two hundred of the Insurance Act, as amended, or in securities issued by any 'registered enterprise,' as this term is defined in the Investment Incentives Act: Provided, That (a) no more than twenty per centum (20%) of such amount shall be invested in the lot and building in which the insurance company conducts its business; and (b) the total investment of an insurance company in any registered enterprise shall not exceed fifteen per centum (15%) of the capital of said investor nor twenty per centum (20%) of the capital of the registered enterprise, unless previously authorized by the Insurance Commission: And provided, further, That such reserve investments, including its minimum capital investments, free from any lien or encumbrance, shall be at least equal in amount to sixty per centum (60%) of the aggregate amount of (a) its legal reserve, as provided in Section 186 of the Insurance Act, and (b) its reserve fund held for reinsurers as provided for in the pertinent treaty provision in the case of reinsurance ceded to authorized insurers.

"3. After satisfying the requirements contained in paragraphs 1 and 2 hereof, any non-life insurance company, may invest any portion of its funds representing earned surplus in any of the investments described in Sections 197, 198 and 200 of the Insurance Act, as amended, or in any securities issued by any registered enterprise' aforementioned: Provided, That no investment in stocks or bonds of any single entity shall in the aggregate, exceed fifteen per centum (15%) of the capital of the investing company or twenty per centum (20%) of the capital of the issuing company, whichever is the lesser, unless otherwise approved by the Insurance Commission.

"4. After satisfying the minimum capital investment required in paragraph 1 hereof, any life insurance company may invest its legal policy reserve, as provided in Section 183 of the Insurance Act, as well as any portion of its earned surplus, in any of the classes of securities or types of investments described in Sections 197, 198, 200 and 200-A, of the Insurance Act, as amended, subject only to the limitations therein contained, and in any securities issued by any 'registered enterprise' aforementioned, in such amounts as may be approved by the Insurance Commission."

SEC. 17. Section Two hundred two (B) of the same Act, as amended, is further amended to read as follows:

"Sec. 202(B). The Insurance Commission shall publish the application for withdrawal daily for a period of one (1) week in the newspapers of general circulation in the City of Manila, one in English and the other in Pilipino. The expenses of publication shall be paid by the insurance company filing such application."

SEC. 18. Section Two hundred three of the same Act is amended to read as follows:

"SEC. 203. Any person, company or corporation who violates any provision of this Chapter, for which no penalty is provided, shall be deemed guilty of a penal offense, and upon conviction be punished by a fine not exceeding ten thousand pesos (P10,000.00) or imprisonment of six (6) months or both such fine and imprisonment in the discretion of the Court.

"If the offense is committed by a company or corporation, the officers, directors or other persons responsible for its operations, unless it can be proved that they have taken no part in the commission of the offense, shall likewise be guilty of a penal offense, and upon conviction be punished by a fine not exceeding ten thousand pesos or imprisonment of six (6) months or both such fine and imprisonment in the discretion of the Court."

SEC. 19. This Decree is hereby made part of the law of the land and shall take effect immediately.

Done in the City of Manila, this 20th day of November, in the year of Our Lord, nineteen hundred and seventy-two.

(Sgd.) FERDINAND E. MARCOS
President
Republic of the Philippines

By the President:

(Sgd.) ALEJANDRO MELCHOR
Executive Secretary

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