

AMENDING SECTION 249, TITLE 15, PRESIDENTIAL DECREE NO. 612, OTHERWISE KNOWN AS THE INSURANCE CODE

PRESIDENTIAL DECREE NO. 1141, May 25, 1977

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WHEREAS, the Insurance Commissioner is entrusted with the duty to see that all laws relating to insurance, insurance companies and other insurance matters are faithfully executed and to perform the duties imposed upon him by the Insurance Code;

WHEREAS, considering the nature of insurance transactions which depend entirely on utmost good faith especially on the part of the insurer, and where an insurance company has become insolvent or cannot continue to resume business with safety to its policyholders and other creditors, its assets must be preserved to settle satisfactorily and expeditiously as possible its debts and accounts; and,

WHEREAS, the action of the Insurance Commissioner in connection therewith should not be hampered unnecessarily by tedious and protracted court litigations;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree and order the amendment of Presidential Decree No. 612, otherwise known as the Insurance Code, as follows:

SECTION 1. Section 249, Title 15, Presidential Decree No. 612, is hereby amended to read as follows:

"TITLE 15.

PROCEEDINGS UPON INSOLVENCY

"Sec. 249. Whenever, upon examination or other evidence, it shall be disclosed that the condition of any insurance company doing business in the Philippines is one of insolvency, or that its continuance in business would be hazardous to its policyholders and creditors, the Commissioner shall forthwith order the company to cease and desist from transacting business in the Philippines and shall designate a receiver to immediately take charge of its assets and liabilities, as expeditiously as possible collect and gather all the assets and administer the same for the benefit of its policyholders and creditors, and exercise all the powers necessary for these purposes including, but not limited to, bringing suits and foreclosing mortgages in the name of the insurance company.

"The Commissioner shall thereupon determine within thirty days whether the insurance company may be reorganized or otherwise placed in such condition so that it may be permitted to resume business with safety to its policyholders and creditors and shall prescribe the conditions under which such resumption of business shall take place as well as the time for fulfillment of such conditions. In such case, the expenses and fees in the collection and administration of the insurance company shall be determined by the Commissioner and shall be paid out of the assets of such company.

"If the Commissioner shall determine and confirm within the said period that the insurance company is insolvent, as defined hereunder, or cannot resume business with safety to its policyholders and creditors, he shall if the public interest requires, order its liquidation, indicate the manner of its liquidation and approve a liquidation plan. The Commissioner shall, by the Solicitor General, file a petition in the Court of First Instance

reciting the proceedings which have been taken and praying the assistance of the Court in the liquidation of the insurance company. The court shall have jurisdiction in the same proceedings to adjudicate disputed claims against the stockholders and do all that is necessary to preserve the assets of the insurance company and to implement the liquidation plan approved by the Commissioner. The Commissioner shall designate a competent and qualified person as liquidator who shall take over the functions of the receiver previously designated and, with all convenient speed, reinsure all its outstanding policies, convert the assets of the insurance company to cash, or sell, assign or otherwise dispose of the same to the policyholders, creditors and other parties for the purpose of settling the liabilities or paying the debts of such company and he may, in the name of the company, institute such actions as may be necessary in the appropriate Court to collect and recover accounts and assets of the insurance company.

"The provisions of any law to the contrary notwithstanding, the actions of the Commissioner under this Section shall be final and executory, and can be set aside by the Court only if there is convincing proof that the action is plainly arbitrary and made in bad faith. No restraining order or injunction shall be issued by the Court enjoining the Commissioner from implementing his actions under this Section unless there is convincing proof that the action of the Commissioner is plainly arbitrary and made in bad faith and the petitioner or plaintiff files with the Clerk or Judge of the Court in which the action is pending a bond executed in favor of the Commissioner in an amount to be fixed by the Court. The restraining order or injunction shall be refused or, if granted, shall be dissolved upon filing by the Commissioner, if he so desires, of a bond in an amount twice the amount of the bond of the petitioner or plaintiff conditioned that it will pay the damages which the petitioner or plaintiff may suffer by the refusal or the dissolution of the injunction. The provisions of Rule 58 of the New Rules of Court insofar as they are applicable shall govern the issuance and dissolution of the restraining order or injunction contemplated in this Section.

"All proceedings under this Article shall be given preference in the Courts. The commissioner shall not be required to pay any fee to any public officer for filing, recording, or in any manner authenticating any paper or instrument relating to the proceedings.

"As used in this Title, the term "Insolvency" shall mean the inability of an insurance company to pay its lawful obligations as they fall due in the usual and ordinary course of business as may shown by its failure to maintain the margin of solvency required under Section 194 of this Code."

SEC. 2. This Decree shall take effect immediately.

Done in the City of Manila, this 25th day of May, in the year of Our Lord Nineteen hundred and seventy-seven.

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

By the President:

(Sgd.) JUAN C. TUVERA
Presidential Executive Assistant

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