

REPUBLIC ACT NO. 7906

AN ACT PROVIDING FOR THE REGULATION OF THE ORGANIZATION AND OPERATIONS OF THRIFT BANKS, AND FOR OTHER PURPOSES.

CHAPTER I DECLARATION OF POLICY AND DEFINITIONS

SECTION 1.

Title. - This Act shall be known and cited as the "Thrift Banks Act of 1995."

Sec. 2.

Declaration of Policy. - It is hereby declared the policy of the State to:

- (a) Recognize the indispensable role of the private sector, to encourage private enterprise, and to provide incentives to needed investments;
- (b) Promote economic development pursuant to the socioeconomic program of the government, to expand industrial and agricultural growth, to encourage the establishment of more private thrift banks in order to meet the needs for capital, personal and investment credit or medium- and long-term loans for Filipino entrepreneurs;
- (c) Encourage and assist the establishment of thrift bank system which will promote agriculture and industry and at the same time place within easy reach of the people the medium-and long-term credit facilities at reasonable cost;
- (d) Encourage industry, frugality and the accumulation of savings among the public, and the members and stockholders of thrift banks; and
- (e) Regulate and supervise the activities of thrift banks in order to place their operations on a sound, stable and efficient basis and to curtail or prevent acts or practices which are prejudicial to the public interest.

Sec. 3.

Definition of Terms. - For purposes of implementing this Act, the following definitions shall apply:

- (a) "Thrift banks" shall include savings and mortgage banks, private development banks, and stock savings and loans associations organized under existing laws, and any banking corporation that may be organized for the following purposes:
 - (1) Accumulating the savings of depositors and investing them, together with capital loans secured by bonds, mortgages in real estate and insured improvements thereon, chattel mortgage, bonds and other forms of security or in loans for personal or household finance, whether secured or unsecured, or in financing for homebuilding and home development; in readily marketable and debt securities; in commercial papers and accounts receivables, drafts, bills of exchange, acceptances or notes arising out of commercial transactions; and in such other investments and loans which the Monetary Board may determine as necessary in the furtherance of national economic objectives;
 - (2) Providing short-term working capital, medium- and long-term financing, to businesses engaged in agriculture, services, industry and housing; and
 - (3) Providing diversified financial and allied services for its chosen market and constituencies specially for small and medium enterprises and individuals.

(b) "Monetary Board" shall mean the Monetary Board of the Bangko Sentral ng Pilipinas.

(c) "Bangko Sentral" shall refer to the Bangko Sentral ng Pilipinas created under Republic Act No. 7653.

CHAPTER II ORGANIZATION

Sec. 4.

Organization. - A thrift bank shall be organized in the form of stock corporation. The Monetary Board shall fix the minimum paid-up capital of thrift banks in such amount as the Board may consider necessary for the safe and sound operation of thrift banks taking into account the development thrusts of this Act and due protection of the general public. No thrift bank shall be organized without a certificate of authority from the Monetary Board.

Sec. 5.

Establishment of Thrift Banks. - The articles of incorporation of any bank, or any amendment thereto, shall not be registered by the Securities and Exchange Commission unless accompanied by a certificate of authority issued by the Monetary Board under its official seal. Such certificate shall not be issued unless the Monetary Board is satisfied from the evidence submitted to it: (a) that all the requirements of the existing laws and regulations to engage in business for which the applicant is proposed to be incorporated have been complied with; (b) that public interest and the economic conditions, both general and local, justify the authorization; and (c) that the amount of capital, the financing organization, direction and administration, as well as the integrity and the responsibility of the organizers and administrators reasonably assure the safety of the interest which the public may entrust to them.

The by-laws of any thrift bank, or any amendment thereto, shall not be registered by the Securities and Exchange Commission unless accompanied by a certificate of the Monetary Board to the effect that such by-laws or amendments thereto are in accordance with law.

Sec. 6.

Bank Management. - In order to maintain the quality of bank management and afford better protection to depositors and the public in general, the Monetary Board may pass upon and review the qualifications of persons who are elected or appointed bank directors and officers and disqualify those unfit. The Monetary Board shall prescribe the qualifications of bank directors and officers for purposes of this Section.

Sec. 7.

Directors and Officers. - At least a majority of the members of the board of directors of any thrift bank which may be established after the effectivity of this Act shall be citizens of the Philippines: Provided, however, That no appointive or elective official, whether full-time or part-time, shall at the same time serve as officer of any thrift bank, except in cases where such service is incident to financial assistance provided by the government or a government-owned or -controlled corporation to the bank: Provided, further, That in the case of merger or consolidation duly approved by the Monetary Board, the limitation on the number of directors in a corporation, as provided in Section 14 of the Corporation Code of the Philippines, shall not be applied so that membership in the new board may include up to the total number of directors provided for in the respective articles of incorporation of the merging or consolidating banks.

CHAPTER III OWNERSHIP AND CAPITAL REQUIREMENTS

Sec. 8.

Ownership. – At least forty percent (40%) of the voting stock of a thrift bank which may be established after the approval of this Act shall be owned by citizens of the Philippines, except where a new bank may be established as a result of a merger or consolidation of existing thrift banks with foreign holdings in which case, the resulting foreign holdings shall not be increased but may be reduced and, once reduced, shall not be increased thereafter beyond sixty percent (60%) of the voting stock of thrift banks. The percentage of the foreign-owned voting stocks shall be determined by the citizenship of individual stockholders and in case of corporations owning shares, by the citizenship of each stockholder in the said corporations.

Any provision of existing laws to the contrary notwithstanding, stockholdings in a thrift bank shall be exempt from any ownership ceiling for a period of ten (10) years from the effectivity of this Act.

Sec. 9.

Combined Capital Accounts of Thrift Banks. – The combined capital accounts of each thrift bank shall not be less than an amount equal to ten percent (10%) of its risk assets which is defined as its total assets minus the following assets:

(a) Cash on hand; and (b) Amounts from the Bangko Sentral;

(c) Evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines;

(d) Loans to the extent covered by hold-out on, or assignment of deposits maintained in the lending bank and held in the Philippines; and

(e) Other non-risk items as the Monetary Board may, from time to time, authorize to be deducted from total assets.

The Monetary Board shall prescribe the manner of determining the total assets of banking institutions for purposes of this Section. Whenever the capital accounts of a bank are deficient with respect to the requirements of the preceding paragraph, the Monetary Board, after considering the report of the appropriate supervising department on the state of solvency of the institution, shall limit or prohibit the distribution of net profits and shall require that part or all of net profits be used to increase the capital accounts of the institution until the minimum requirement has been met. The Monetary Board may, after considering the aforesaid report of the appropriate supervising department and if the amount of the deficiency justifies it, restrict or prohibit the making of new investments of any sort by the bank, with the exception of purchases of evidences of indebtedness included under subsection (c) of this Section, until the minimum required capital ratio has been restored.

Where in the process of a bank merger or consolidation, the merged or constituent bank may not be able to comply fully with the net worth to risk asset ratio herein prescribed, the Monetary Board may, at its discretion, temporarily relieve the bank from full compliance with this requirement under such conditions it may prescribe.

CHAPTER IV POWERS

Sec. 10.

Powers of Thrift Banks. – In addition to powers granted it by this Act and existing laws, any thrift bank may:

(a) Accept savings and time deposits; and (b) Open current or checking accounts: Provided, That the thrift bank has net assets of at least Twenty million pesos (P20,000,000) subject to such guidelines as may be established by the Monetary Board; and shall be allowed to directly clear its demand deposit operations with the Bangko Sentral and the Philippine Clearing House Corporation;

(c) Act as correspondent for other financial institutions;

(d) Act as collection agent for government entities, including but not limited to, the Bureau of Internal Revenue, Social Security System, and the Bureau of Customs;

(e) Act as official depository of national agencies and of municipal, city or provincial funds in the municipality, city or province where the thrift bank is located, subject to such guidelines as may be established by the Monetary Board;

(f) Rediscount paper with the Philippine National Bank, the Land Bank of the Philippines, the Development Bank of the Philippines, and other government-owned or -controlled corporations. Said institutions shall specify the nature of paper deemed acceptable for rediscount, as well as rediscounting rate to be charged by any of these institutions; and

(g) Issue mortgage and chattel mortgage certificates, buy and sell them for its own account or for the account of others, or accept and receive them in payment or as amortization of its loan. Such mortgage and chattel mortgage certificates shall be issued exclusively in national currency and exclusively for the financing of equipment loans, mortgage loans for the acquisition of machinery and other fixed installations, conservation, enlargement or improvement of productive properties and real estate mortgage loans for: (1) the construction, acquisition, expansion or improvement of rural and urban properties; (2) the refinancing of similar loans and mortgages; and (3) such other purposes as may be authorized by the Monetary Board. A thrift bank shall coordinate the amounts and maturities of its certificates with those of its loans, so as to ensure adequate cash receipts for the payment of principal and interest at the time they become due. The bank shall accept its own certificates at least at the actual price of issue, in any prepayment of loans which mortgage or chattel mortgage debtors may wish to make: Provided, That the date of maturity of the certificates is not later than the date on which the payment would otherwise become due, in the absence of the aforesaid prepayment;

(h) Purchase, hold and convey real estate under the same conditions as those governing commercial banks as specified under Section 25 of Republic Act No. 337; and

(i) Engage in quasi-banking and money market operations;

(j) Open domestic letters of credit;

(k) Extend credit facilities to private and government employees: Provided, That in the case of a borrower who is a permanent employee or wage earner, the treasurer, cashier or paymaster of the office employing him is authorized, notwithstanding the provisions of any existing law, rules and regulations to the contrary, to make deductions from his salary, wage or income pursuant to the terms of his loan, to remit deductions to the thrift bank concerned, and collect such reasonable fee for his services;

(l) Extend credit against the security of jewelry, precious stones and articles of similar nature, subject to such rules and regulations as the Monetary Board may prescribe; and

(m) Offer other banking services as provided in Section 72 of Republic Act No. 337 and Republic Act No. 6426, as amended.

Thrift banks may perform the services under subsections (b), (d), (e), (g) and (i) only upon prior approval of the Monetary Board. Nothing in this Section shall be construed as precluding a thrift bank from performing, with prior approval of the Monetary Board, commercial banking services, or from operating under an expanded banking authority, nor from exercising, whenever applicable and not inconsistent with the provisions of this Act and Bangko Sentral regulations, and such other powers incident to a corporation.

Sec. 11.

Limitations on Lending Authority. - Except as the Monetary Board may otherwise prescribe, the direct indebtedness to thrift banks of any person, company, corporation, or firm, including the indebtedness of members of a partnership and association, for money borrowed, excluding: (a) loans secured by obligations of the Bangko Sentral; (b) loans fully guaranteed by the government as to the payment of principal and interest; (c) loans to the extent covered by the hold-out on, or assignment of, deposits maintained in the lending bank and held in the Philippines; and (d) other loans or credits as the Monetary Board may, from time to time, specify as non-risk assets, which shall in no time exceed fifteen percent (15%) of unimpaired capital and surplus of the bank. Notwithstanding the provisions of the preceding paragraph and subject to such regulations as the Monetary Board may prescribe, the total indebtedness of any borrower to the bank may amount to a further fifteen percent (15%) of the unimpaired capital and surplus of such bank provided the additional indebtedness is for the purpose of financing subdivision or housing development, medium- and low-income borrowers and agriculture on a fully secured basis.

The term "indebtedness" as used herein, shall mean the direct liability of the maker or acceptor of paper discounted with or sold to such bank and liability of the indorser, drawer or guarantor who obtains a loan from or discounts paper with or sells paper under his guaranty to such bank; and shall include in the case of liabilities of a partnership or association the liabilities of the several members thereof; and shall include in the case of liabilities of a corporation, all liabilities of all the subsidiaries thereof in which such corporation owns or controls a majority interest: Provided, That even if the parent corporation, partnership or association has no liability to the bank, the Monetary Board may prescribe the combination of liabilities of subsidiary corporations or members of the partnership or association under certain circumstances, including but need not be limited to any of the following situations: (a) the parent corporation, partnership or association guarantees the repayment of liabilities; (b) the liabilities were incurred for the accommodation of the parent corporation or another subsidiary or of the partnership or association; or (c) the subsidiaries through separate entities operate merely as departments or divisions of a single entity: Provided, further, That the discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial and business paper actually owned by the person negotiating the same, shall not be considered as money borrowed for the purpose of this Section: Provided, finally, That certain types of contingent liabilities of borrowers may be included among the total liabilities as may be determined by the Monetary Board.

Loan accommodations granted by thrift banks to any other bank, as well as deposits maintained by them in any bank licensed to do business in the Philippines, shall be subject to the loan limit of any single borrower as herein prescribed.

Sec. 12.

Investment in Allied Undertakings. - Subject to such guidelines as may be established by the Monetary Board, thrift banks may invest in equities of allied undertakings as hereinafter enumerated: Provided, That: (a) the total investments in equities shall not exceed twenty-five percent (25%) of the net worth of the thrift bank; (b) the equity investment in any single

enterprise shall be limited to fifteen percent (15%) of the net worth of the thrift bank; (c) the equity investment in any single enterprise shall remain a minority holding in that enterprise; and (d) the equity investment in other banks shall be subject to the same provisions governing similar investments of commercial banks and shall be deducted from the investing bank's net worth for the purpose of computing of the prescribed ratio as provided in Section 9 hereof: Provided, further, That equity investments shall not be permitted in non-related activities. Where the allied activity is a wholly- or majority-owned subsidiary of the thrift bank, the Bangko Sentral may subject it to examination.

Investment in allied undertaking shall include institutions engaged in the following activities:

(a) Banking and financing; (b) Warehousing and other post-harvesting activities;

(c) Fertilizer and agricultural chemical and pesticides distribution;

(d) Farm equipment distribution;

(e) Trucking and transportation of agricultural products;

(f) Marketing of agricultural products;

(g) Leasing; and

(h) Other undertakings as may be determined by the Monetary Board.

CHAPTER V SUPERVISION

Sec. 13.

Supervisory Powers of the Monetary Board. - The power to supervise the operation of any thrift bank by the Monetary Board shall consist in placing limits to the maximum credit allowed to any individual borrower; in indicating the manner in which technical assistance shall be extended to thrift banks; in imposing a uniform accounting system and manner of keeping the accounts and records of thrift banks; in instituting periodic surveys of loans and lending procedures, audits, test-check of cash and other transactions of the thrift banks; in conducting training courses for personnel of thrift banks; and, in general, in supervising the business operations of the thrift banks.

The Bangko Sentral shall have the power to enforce the laws, orders, instructions, rules and regulations promulgated by the Monetary Board applicable to thrift banks; to require thrift banks, their directors, officers and agents to conduct and manage the affairs of the thrift bank in a lawful and orderly manner; and upon proof that the thrift bank or its board of directors or officers are conducting and managing the affairs of the bank in a manner contrary to laws, orders, instructions, rules and regulations promulgated by the Monetary Board or in a manner substantially prejudicial to the interest of the government, depositors, creditors, or the general public, to appoint a conservator pursuant to Section 29 of Republic Act No. 7653 without prejudice to the prosecution of persons responsible for such violations under the provisions of Sections 36 and 37 of Republic Act No. 7653.

The director and examiners of the department of Bangko Sentral charged with the supervision of thrift banks are hereby authorized to administer oaths to any director, officer or employee of any thrift bank or to any voluntary witness and to compel the presentation of all books, documents, papers or records necessary in his or their judgment to ascertain the facts relative to the true conditions of any thrift bank or to any loan.

CHAPTER VI INCENTIVES

Sec. 14.

Reserve Requirement Differential. – Reserve requirement imposed on thrift banks by the Monetary Board shall enjoy equitable preferential terms over those imposed on commercial banks: Provided, That the Monetary Board may change reserve differentials for the purpose of stimulating economic growth in the countryside, thereby promoting national economic development.

Sec. 15.

Liberalized Branching Rules. – Thrift banks shall have unrestricted branching right within the region, free from any assessment or surcharges required in setting up a branch, but under coordination with the Bangko Sentral which will have to assess that there are qualified personnel, control and procedures to operate the branch.

Sec. 16.

Notices of Statement of Condition. – Subject to Monetary Board approval, a thrift bank may publish its statement of condition in a newspaper of general circulation, or post it in the most conspicuous area of its premises, municipal building, municipal public market, barangay hall and barangay public market if there be any, where the thrift bank concerned is located.

CHAPTER VII EXEMPTIONS

Sec. 17.

Tax Exemptions. – All thrift banks, whether created or organized under this Act or in operation as of the date of effectivity of this Act, shall be exempt from payment of all taxes, fees and charges of whatever nature and description, except the corporate income taxes and local taxes, fees and charges for a period of five (5) years, counted from the date of commencement of operations for thrift banks created under this Act and from the date of the effectivity of this Act for existing thrift banks.

Sec. 18.

Exemption from Publication Requirement. – The foreclosure of mortgage covering loans granted by thrift banks and executions of judgments thereon involving real properties and levied upon by a sheriff shall be exempt from publication requirements where the total amount of the loan, excluding interest due and unpaid, does not exceed One hundred thousand pesos (P100,000) or such amount as the Monetary Board may prescribe, as may be warranted by the prevailing economic conditions and by the nature of service of customers served by each category of the thrift bank. It shall be sufficient publication in such cases if the notice of foreclosure and execution of judgment are posted in the conspicuous area of a thrift bank's premises, municipal building, the municipal public market, the barangay hall, and the barangay public market, if there be any, where the land mortgaged is situated within a period of sixty (60) days immediately preceding the public auction of the execution of judgment. Proof of publication as required herein shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale or execution of judgment and shall be attached with the records of the case.

A thrift bank shall be allowed to foreclose lands mortgaged to it; Provided, That said lands shall be covered under Republic Act No. 6657.

Sec. 19.

Exemption from Notarial Charges. – Any metropolitan, municipal, or municipal circuit trial court judge in his capacity as notary public ex officio shall administer the oath to or acknowledge the instrument of any thrift bank and its borrowers or mortgagor free from all charges, fees and

documentary stamp tax, collectible under existing laws, relative to any loan or transaction not exceeding Fifty pesos (P50.00) or such amount as the Secretary of Finance, upon recommendation of the Monetary Board, may prescribe as may be necessary to promote and expand the economy.

Sec. 20.

Exemption from Registration Fees. - Any register of deeds shall accept from any thrift bank and its borrowers and mortgagors for registration, free from all charges, fees and documentary stamp tax, collectible under existing laws, any instrument, whether voluntary or involuntary, relating to loans or transactions extended by any thrift bank in an amount not exceeding Fifty thousand pesos (P50,000): Provided, however, That charges, if any, shall be collectible on the amount in excess of Fifty thousand pesos (P50,000); and that an instrument related to assignments of several mortgages consolidated in a single deed, if any, shall be levied only on the amount in excess of Fifty thousand pesos (P50,000) of the consideration in the assignment of each mortgage, or such amount as the Secretary of Finance, upon recommendation of the Monetary Board, may prescribe as may be necessary to promote and expand the economy.

CHAPTER VIII PROHIBITIONS

Sec. 21.

Prohibited Acts. - Without prejudice to any prosecution under any law which may have been violated, a fine of not more than Ten thousand pesos (P10,000) or imprisonment for not less than six (6) months but not more than ten (10) years, or both, at the discretion of the court, shall be imposed upon:

(a) Any officer, employee, or agent of a thrift bank who shall:

(1) Make false entries in any bank report or statement thereby affecting the financial interest of, or causing damage to, the bank or any person; or
(2) Without order of a court of competent jurisdiction, disclose any information relative to the funds or properties in the custody of the bank belonging to private individuals, corporations, or any other entity; or

(3) Accept gifts, fees or commissions or any other form of remuneration in connection with the approval of a loan from said bank; or

(4) Overvalue or aid in the overvaluing any security for the purpose of influencing in any way the action of the bank on any loan; or

(5) Appear and sign as guarantor, indorser, or surety for loans granted; or

(6) Violate any provision of this Act.

(b) Any applicant for a loan from, or borrower of a thrift bank who shall:

(1) Misuse, misapply or divert the proceeds of the loan obtained by him from its declared purpose; or
(2) Fraudulently overvalue property offered as security for a loan from said bank; or

(3) Give out or furnish false or willful misinterpretation of material facts for the purpose of obtaining, renewing, or increasing a loan extending the period thereof; or

(4) Attempt to defraud the said bank in the event of court action to recover the loan; or

(5) Offer any officer, employee or agent of a thrift bank a gift, fee, commission or other forms

of compensation in order to influence such bank personnel into approving a loan application; or

(6) Dispose or encumber the property offered as security for the loan.

(c) Any examiner, or officer or employee of the Bangko Sentral or of any department, bureau, office, branch, or agency of the government who is assigned to examine, supervise, assist or render technical service to thrift banks and who shall connive or aid in the commission of the same. (d) Any metropolitan, municipal, or municipal circuit trial court judge or register of deeds who shall demand or accept, directly or indirectly, any gift, fee, commission, or any other form of compensation in connection with the service, or shall arbitrarily and without reasonable cause delay the acknowledgment or administration of oath or the registration of documents required to be performed by said judge or by said register of deeds shall be punished with a fine of not more than One (1) thousand pesos (P1,000) or by imprisonment of not more than one (1) year, or both, at the discretion of the court.

(e) Any bank not organized under this Act and any person, association, or corporation doing the business of banking, not authorized under this Act or existing laws which shall use the words "Development Bank," "Savings Bank," "Mortgage Bank," "Savings and Mortgage Bank," or "Savings and Loan Association," as part of the name or title of such bank or of such person, association, or corporation, shall be punished by a fine of not less than One hundred pesos (P100), but in no case to exceed Thirty thousand pesos (P30,000), for each day during which the said words are so used.

CHAPTER IX GENERAL PROVISIONS

Sec. 22.

Minors as Depositors. – Minors in their own rights and in their own names may make deposits and withdraw the same, and may receive dividends and interest: Provided, however, That, if any guardian shall give notice in writing to any thrift bank not to make payments of deposits, dividends, or interest to the minor of whom he is the guardian, then such payment shall be made only to the guardian.

Sec. 23.

Return of Deposits. – Deposits shall be returned to the depositors or to their legal representatives in the manner and at the time and under the conditions which shall be determined by the board of directors and stipulated in regulations which shall be in conformity with laws and with such regulations as the Monetary Board may prescribe.

Sec. 24.

Deposit Insurance. – Deposit in thrift banks shall be eligible for insurance coverage under Republic Act No. 3591, as amended.

Sec. 25.

Annual Fees. – Consistent with the provisions of Section 28 of Republic Act No. 7653, any thrift bank organized under this Act may, pursuant to regulations promulgated for the purpose by the Monetary Board, be required to contribute to the Bangko Sentral an annual fee in an amount to be determined by the Monetary Board.

Sec. 26.

Implementation. – For the purpose of carrying the objectives of this Act, the Bangko Sentral is authorized to require the services and facilities of any department or instrumentality of the government or any officer or employee of any such department or government instrumentality.

Sec. 27.

Annual Report. – The Monetary Board shall submit a report to the Congress of the Philippines at the end of each calendar year of all the rules and regulations promulgated by it in accordance with the provisions of this Act, as well as its other actuations in connection with thrift banks together with an explanation of its reasons therefor and recommendations on legislative actions.

Sec. 28.

Parity Clause Under Same Circumstances. – The incentives granted shall be enjoyed by financial institutions giving the same services for countryside lending and development under such terms as may be equitable and as may be defined by the Monetary Board.

Sec. 29.

Separability Clause. – If any provision of this Act or the application thereof to any person or circumstances is held invalid, the other provisions of this Act and the application of such provisions to other persons and circumstances, shall not be affected thereby.

Sec. 30.

Repealing Clause. – Republic Act No. 4093, Republic Act No. 3779 to the extent that it applies to thrift banks, and Chapter 5 of Republic Act No. 337 are hereby repealed. Any law or parts of any law inconsistent with the provisions of this Act are hereby repealed. In all matters affecting the price stability of the peso, the provisions of Republic Act No. 7653 shall prevail.

Sec. 31.

Applicability of Other Laws. – The provisions of Republic Act No. 7653 and Republic Act No. 337, as amended, insofar as they are applicable and not in conflict with any provision of this Act, shall apply to thrift banks organized hereunder.

Sec. 32.

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

Approved: February 23, 1995 .