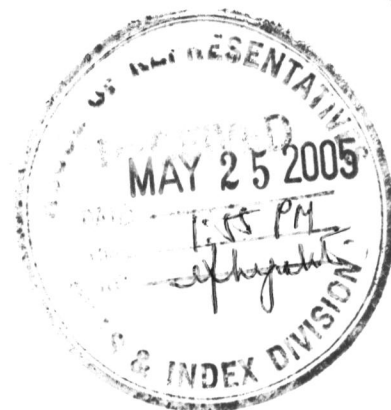


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 4365

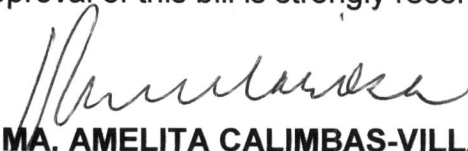
Introduced by HON. MA. AMELITA CALIMBAS-VILLAROSA

EXPLANATORY NOTE

This bill seeks to expand the supervisory and regulatory powers of the Bangko Sentral ng Pilipinas to include within the ambit of its authority, bank subsidiaries and affiliates engaged in allied activities, quasi-banks, trust entities and other non-bank financial institutions placed under Bangko Sentral supervision via special laws. A review of the penal provisions of R.A. 7653 will also reveal that there is a need to update them with the times.

Strict supervision and regulation should not be limited to banking institutions but must also embrace other non-bank financial institutions that manage hard-earned money of the citizenry with whom they should maintain relationships of the highest trust and confidence. Under the present state of affairs, bank subsidiaries and affiliates engaged in allied activities as well as non-bank financial institutions are not within the supervisory and regulatory powers of the BSP which might encourage manipulative and oppressive business activities to the detriment of the Filipino people. In the midst of the economic crisis that grips our country, this is the last thing that government must allow.

In view of the foregoing, approval of this bill is strongly recommended.


MA. AMELITA CALIMBAS-VILLAROSA

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 4365

Introduced by HON. MA. AMELITA CALIMBAS-VILLAROSA

**AN ACT EXPANDING THE SUPERVISORY AND REGULATORY
POWERS OF THE BANGKO SENTRAL NG PILIPINAS,
AMENDING FOR THE PURPOSE, REPUBLIC ACT NO. 7653**

*Be it enacted by the Senate and the House of Representatives of
the Philippines in Congress so assembled.*

SECTION 1. This Act shall be known as the "Expanded BSP Supervisory and Regulatory Powers Act of 2005".

SECTION 2. Section 3 of Republic Act No. 7653 is hereby amended to read as follows:

SECTION 3. *Responsibility and Primary Objective.* – The Bangko Sentral shall provide policy directions in the areas of money, banking and credit. It shall have supervision over the operations of banks, quasi-banks, trust entities and other financial institutions which under this act or special laws are subject to Bangko Sentral supervision and exercise such regulatory powers as provided in this Act and other pertinent laws over the operations of other non-bank financial institutions.

SECTION 3. Section 28 of Republic Act No. 7653 is hereby amended to read as follows:

SECTION 28. *Examination and Fees.* – The supervising and examining department head, personally or by deputy, shall examine the books of every bank, quasi-bank, and trust entity, including their subsidiaries and affiliates engaged in allied activities and other financial institutions which under special laws are subject to Bangko

Sentral supervision, in accordance with the guidelines set by the Monetary Board. *Provided*, that there shall be an interval of at least twelve (12) months between regular examinations. *Provided, further*, that the Monetary Board by an affirmative vote of five (5) members may authorize a special examination as it may deem expedient.

SECTION 4. Section 30 of Republic Act No. 7653 is hereby amended to read as follows:

SECTION 30. *Proceedings in Receivership and Liquidation.* – Whenever, upon report of the head of the supervising and examining department, the Monetary Board finds that a bank, quasi-bank or a trust entity:

a. Has notified the Bangko Sentral or publicly announced a unilateral closure, or in any manner has suspended the payment of its deposit/deposit substitutes liabilities, or is unable to pay its liabilities as they become due in the ordinary course of business. *Provided*, that this shall not include inability to pay caused by extraordinary demands induced by financial panic in the banking or financial community; or

b. Has insufficient realizable assets to meet its liabilities, as determined by the Bangko Sentral in accordance with the banking regulations; or

c. Cannot continue in business without involving probable losses to its depositors or creditors; or

d. Has willfully violated a cease and desist order under Section 37 that has become final, involving acts or transactions which amount to fraud or a dissipation of the assets of the institution;

in which cases, the Monetary Board may summarily and without need for prior hearing forbid the institution from doing business in the Philippines and, in case of a bank, designate the Philippine Deposit Insurance Corporation as receiver of the banking institution.

The authority of the Monetary Board to place a bank, quasi-bank or a trust entity under receivership as provided above may also be exercised over non-stock savings and loan associations, based on the same applicable grounds. For this purpose, any

person of recognized competence in banking, credit and finance may be designated as a receiver.

SECTION 5. Section 36 of Republic Act No. 7653 is hereby amended to read as follows:

SECTION 36. *Proceedings upon violation of this Act and other banking laws, rules, regulations, orders or instructions.* – Whenever a bank, quasi-bank, trust entity or other financial institution which under this Act or special laws is subject to Bangko Sentral supervision or whenever any person or entity willfully violates this Act or other pertinent banking laws being enforced or implemented by the Bangko Sentral or any order, instruction, rule or regulation issued by the Monetary Board, the person or persons responsible for such violation shall unless otherwise provided in this Act be punished by a fine of not less than fifty thousand pesos (P50,000.00) nor more than two million pesos (P2,000,000.00) or by imprisonment of not less than two (2) years nor more than ten (10) years, or both, at the discretion of the court.

Whenever an entity under Bangko Sentral supervision persists in carrying on its business in an unlawful or unsafe manner, the Board may, without prejudice to the penalties provided in the preceding paragraph of this section and the administrative sanctions provided in Section 37 of this Act, take action under Section 30 of this Act.

SECTION 6. Section 37 of Republic Act No. 7653 is hereby amended to read as follows:

SECTION 37. – *Administrative Sanctions.* Without prejudice to the criminal sanctions against culpable persons provided in Sections 34, 25 and 36 of this Act, the Monetary Board may, at its discretion, impose upon any bank, quasi-bank or trust entity, their subsidiaries and affiliates engaged in allied activities and other institutions which under special laws are subject to the Bangko Sentral supervision, their directors and/or officers, for any willful violation of its charter or by-laws, willful delay in the submission of reports or publications thereof as required by law, rules and regulations; any refusal to permit examination into the affairs of the institution; any willful making of a false or misleading statement to the Board or the appropriate supervising or examining department or its examiners; any willful failure or refusal to comply with, or violation of any banking law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor; or any commission of irregularities, and/or conducting business in

an unsafe or unsound manner as may be determined by the Monetary Board, the following administrative sanctions, whenever applicable:

- a. fines in amounts as may be determined by the Monetary Board to be appropriate but in no case to exceed three hundred thousand pesos (P300,000.00) or such other amount of maximum fine as may be set by the Monetary Board per banking day for each violation taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the size of the institutions;
- b. suspension of rediscounting privileges or access to Bangko Sentral credit facilities;
- c. suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;
- d. suspension of interbank clearing privileges;
- e. revocation of quasi-banking license;
- f. revocation of trust license;
- g. prohibition from declaring cash dividends;
- h. confiscation by and forfeiture in favor of the Bangko Sentral of any and all profits, as may be determined by the Monetary Board, arising from the offense or violation of banking laws, rules and regulations; and/or
- i. other sanctions as the Monetary Board may deem appropriate under the circumstances.

The director or officer responsible for the violation may, after due process, be suspended, removed or disqualified from holding office, or any position, in an institution under the supervision of the Bangko Sentral, for a period to be determined by the Monetary Board, taking into consideration the attendant circumstances, such as the nature and gravity of the act or omission and the size of the institution.

Resignation or termination from office shall not exempt such director or officer from administrative or criminal sanctions.

The Monetary Board, may, whenever warranted by circumstances, preventively suspend any director or officer of the institution pending an investigation. *Provided*, that should the case be not finally decided by the Bangko Sentral within a period of one hundred twenty (120) days after the date of suspension, said director or officer shall be reinstated in his position. *Provided, further*, that when the delay in the disposition of the case is due to the fault, negligence or petition of the director or officer, the period of delay shall not be counted in computing the period of suspension herein provided.

The above administrative sanctions need not be applied in the order of their severity.

Whether or not there is an administrative proceeding, if the institution and/or the directors and/or officers concerned continue with or otherwise persist in the commission of their indicated practice or violation, the Monetary Board may issue an order requiring the institution and/or the directors and/or officers concerned to cease and desist from the indicated practice or violation, and may further order that immediate action be taken to correct the conditions resulting from such practice or violation. The cease and desist order shall be immediately effective upon service on the respondents.

The respondents shall be afforded an opportunity to defend their action in a hearing before the Monetary Board or any committee chaired by any Monetary Board member created for the purpose, upon request made by the respondents within five (5) days from their receipt of the order. If no such hearing is requested within said period, the order shall become final. If a hearing is conducted, all issues shall be determined on the basis of records, after which the Monetary Board may either reconsider or make final its order.

The Governor is hereby authorized, at his discretion, to impose upon banks, quasi-banks, and trust entities including their subsidiaries and affiliates engaged in allied activities, and other financial institutions which under special laws are subject to Bangko Sentral supervision for any failure to comply with the requirements of law, Monetary Board regulations and policies, and/or instructions issued by the Monetary Board or by the Governor, fines not in excess of one hundred thousand pesos (100,000.00) per banking day for each violation, the imposition of which shall be final and executory until reversed, modified or lifted by the Monetary Board on appeal.

SECTION 7. This Act shall take effect fifteen days from its publication in two newspapers of general circulation.

Approved,