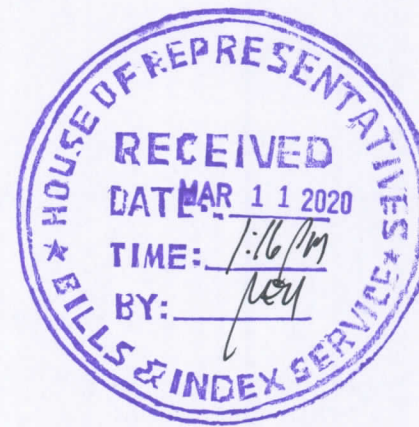


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6565



Introduced by: **"KUYA" JOSE ANTONIO R. SY-ALVARADO**

EXPLANATORY NOTE

The Philippine insurance industry is presently regulated by the Insurance Commission in accordance with its statutory mandate per Republic Act No. 10607, otherwise known as the "Insurance Code of the Philippines". The banking industry and non-bank financial institutions with quasi-banking functions are presently regulated by the Bangko Sentral ng Pilipinas.

These financial services are vital to the country's economic stability. This representation believes that the same should be supervised by a single financial regulator for purposes of unity in financial policy direction and uniform application of rules and regulations towards achieving the country's financial and economic objectives. Moreover, this representation has observed a trend in the leading economies of Southeast Asia that similar financial services are supervised by a single authority.

Moreover, there is likewise a pressing need for the following: (1) the inclusion of Parametric Insurance, Catastrophe Insurance, and Agri-Insurance to address the ever-evolving insurance industry and needs of the insuring public; (2) inclusion of Takaful Insurance governed by Sharia Law to protect the interests of our Muslim brothers and sisters, as Islamic law does not allow conventional insurance; and (3) the strengthening of consumer protection provisions of Republic Act No. 10607.

It is the position of this representation that given the above-mentioned considerations, the transfer of the powers and functions, applicable funds and appropriations, records, equipment, property, and all career personnel of the Insurance Commission to the Bangko Sentral ng Pilipinas as a division of the latter, and the amendment of Sections 2, 77, 189, 193, 200, 201, 202, 204 to 207, 219, 221, and 441 of Republic Act No. 10607, are not only necessary for the growth of the Philippines' financial sector and its economy, in general, but are likewise beneficial.

In view of the foregoing, the approval of this bill is earnestly requested.

"KUYA" JOSE ANTONIO R. SY-ALVARADO
Representative
First District of Bulacan

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
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HOUSE BILL NO. 6565

Introduced by: "KUYA" JOSE ANTONIO R. SY-ALVARADO

AN ACT
TRANSFERRING THE POWERS AND FUNCTIONS OF THE INSURANCE
COMMISSION TO THE BANGKO SENTRAL NG PILIPINAS AND FURTHER
STRENGTHENING THE INSURANCE INDUSTRY, AMENDING SECTIONS 2, 77, 189,
193, 200, 201, 202, 204 TO 207, 219, 221, AND 441 OF REPUBLIC ACT NO. 10607,
OTHERWISE KNOWN AS THE INSURANCE CODE, AS AMENDED BY
PRESIDENTIAL DECREE NOS. 612, 1141, 1280, 1455, 1460, 1814, AND 1981, AND
BATAS PAMBANSA BLG. 874, AND FOR OTHER PURPOSES

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

CHAPTER I
TRANSFER OF POWERS AND FUNCTIONS
OF THE INSURANCE COMMISSION TO
THE BANGKO SENTRAL NG PILIPINAS

Section 1. **Transfer of Powers and Functions of the Insurance Commission to the Bangko Sentral ng Pilipinas.** – The powers and functions of the Insurance Commission under Republic Act No. 10607, otherwise known as the "*Insurance Code of the Philippines*," its applicable funds and appropriations, records, equipment, property, and all its career personnel are hereby transferred to the Bangko Sentral ng Pilipinas.

All previous references to the "*Insurance Commissioner*," "*Commissioner*," or "*Commission*" in Republic Act No. 10607 shall hereby refer to the Bangko Sentral ng Pilipinas.

Section 2. **Structure and Staffing Pattern.** – The Bangko Sentral ng Pilipinas shall determine its organizational structure and create new divisions or units as it may deem necessary, and shall appoint officers and employees thereunder in accordance with the civil service law, rules, and regulations.

The laws and rules on government reorganization as provided for in Republic Act No. 6656, otherwise known as the Reorganization Law, shall govern the reorganization process under this Act, insofar as applicable.

Section 3. **Separation and Retirement from Service.** – Employees who are separated from service within one (1) year of the effectivity of this Act as a result of the consolidation and/or reorganization under the provisions of this Act, if any, shall receive separation benefits to which they may be entitled under Executive Order No. 366, s. 2004: *Provided*, That those who are qualified to retire under existing retirement laws shall be allowed to retire and receive retirement benefits to which they may be entitled under applicable laws and issuances.

Section 4. **Transition Period.** – The transfer of functions, assets, funds, equipment, property, transactions, and career personnel of the Insurance Commission to the Bangko Sentral ng Pilipinas, and the formulation of the internal organic structure, staffing pattern, operating system, and revised budget of the Bangko Sentral ng Pilipinas, shall be completed within one (1) year from the effectivity of this Act. During said time, the existing personnel of the Insurance Commission shall continue to assume their posts in holdover capacities until appointments to the newly created positions are issued.

Section 5. **Implementing Rules and Regulations.** – The Bangko Sentral ng Pilipinas, in consultation with the Insurance Commission, shall issue within sixty (60) days from the effectivity of this Act, the necessary rules and regulations for the effective implementation of this Act.

Section 6. **Transition Costs.** – The amount needed for the implementation of this Act shall be taken from the Insurance Fund of the Insurance Commission.

CHAPTER II OTHER AMENDMENTS

Section 7. Section 2, paragraph (a) of Republic Act No. 10607 is hereby amended to read as follows:

“Section 2. x x x

(a) x x x

A CONTRACT OF INSURANCE MAY ALSO REFER TO THE FOLLOWING AS HEREIN DEFINED:

(A) (1) PARAMETRIC INSURANCE – AN AGREEMENT WHEREBY ONE UNDERTAKES FOR A CONSIDERATION TO INDEMNIFY ANOTHER AGAINST LOSS, DAMAGE, OR LIABILITY ARISING FROM AN UNKNOWN OR CONTINGENT EVENT OR TO PAY OUT BENEFITS OR LOSSES TO ANOTHER ON THE BASIS OF A PREDETERMINED INDEX OR PARAMETER.

(A) (2) ISLAMIC INSURANCE – A FORM OF INSURANCE BASED ON SHARIA OR ISLAMIC RELIGIOUS LAW AND ON PRINCIPLES OF MUTUALITY AND COOPERATION, ENCOMPASSING THE ELEMENT OF SHARED RESPONSIBILITY, JOINT INDEMNITY COMMON INTEREST AND SOLIDARITY.

(A) (3) CATASTROPHE INSURANCE - A CONTRACT OF INSURANCE THAT AIMS TO COVER CATASTROPHE RISK. CATASTROPHE RISK IS THE RISK OF LOSS, OR OF ADVERSE CHANGE IN VALUE OF INSURANCE LIABILITIES, RESULTING FROM SIGNIFICANT UNCERTAINTY OF PRICING AND PROVISIONING ASSUMPTIONS RELATED TO EXTREME OR EXCEPTIONAL EVENTS.

(A) (4) AGRI-INSURANCE - AN INSURANCE PRODUCT THAT PROTECTS FARMERS AGAINST LOSSES OR DAMAGES TO CROPS OR LIVESTOCK.

(b) x x x”

Section 8. Section 77 of Republic Act No. 10607 is hereby amended to read as follows:

“Section 77. An insurer is entitled to payment of the premium as soon as the thing insured is exposed to the peril insured against.

Notwithstanding any agreement to the contrary, no policy or contract of insurance issued by an insurance company is valid and binding unless and until the full premium thereof has been paid, **EXCEPT IN THE CASE WHERE THERE IS AN INSTALLMENT PREMIUM PAYMENT ARRANGEMENT BETWEEN THE INSURANCE COMPANY AND THE POLICYHOLDER, OR IN THE CASE OF A LIFE OR AN INDUSTRIAL LIFE POLICY WHENEVER THE GRACE PERIOD PROVISION APPLIES.**”

Section 9. Section 189 of Republic Act No. 10607 is hereby amended to read as follows:

“Section 189. All companies regulated by the **BANGKO SENTRAL NG PILIPINAS**, unless otherwise required by law, should comply with the financial reporting frameworks adopted by the **BANGKO SENTRAL NG PILIPINAS** for purposes of creating the statutory financial reports and the annual statements to be submitted to the **BANGKO SENTRAL NG PILIPINAS**. Financial reporting framework means a set of accounting and reporting principles, standards, interpretations and pronouncements that must be adopted in the preparation and submission of the statutory financial statements and reports required by the **BANGKO SENTRAL NG PILIPINAS**. This financial reporting framework is not the same as the financial reporting framework used to prepare the financial statements that the Securities and Exchange Commission may require. The main purpose of the statutory statements is to present important information about the level of risk and solvency situation of insurers. In prescribing the applicable statutory financial reporting framework, the **BANGKO SENTRAL NG PILIPINAS** shall take into account international standards concerning solvency, **GROUP-WIDE SUPERVISION**, and insurance company reporting as well as generally accepted actuarial principles concerning financial reporting promulgated by the Actuarial Society of the Philippines.

THE BANGKO SENTRAL NG PILIPINAS SHALL HAVE THE AUTHORITY TO MAKE, AMEND, AND RESCIND SUCH ACCOUNTING RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS CODE, AND DEFINE ACCOUNTING, TECHNICAL AND TRADE TERMS USED IN THIS CODE.

THE ASSETS AND INVESTMENTS SHALL BE ACCOUNTED FOR IN ACCORDANCE WITH THIS SECTION.

The valuation of reserves shall be accounted for in accordance with Title 5 of this Code.”

Section 10. Section 193 of Republic Act No. 10607 is hereby amended to read as follows:

“Section 193. No 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 **BANGKO SENTRAL NG PILIPINAS** upon application therefor and payment by the company concerned of the fees hereinafter prescribed.

"The **BANGKO SENTRAL NG PILIPINAS** may refuse to issue a certificate of authority to any insurance company if, in **ITS** judgment, such refusal will best promote the interest of the people of this country. No such certificate of authority shall be granted to any such company until the **BANGKO SENTRAL NG PILIPINAS** 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 business therein, that the grant of such authority appears to be justified in the light of local economic requirements, and that the direction and administration, as well as the integrity and responsibility of the organizers and administrators, the financial organization and the amount of capital, reasonably assure the safety of the interests of the policyholders and the public.

"In order to maintain the quality of the management of the insurance companies and afford better protection to policyholders and the public in general, any person of good moral character, unquestioned integrity and recognized competence may be elected or appointed director or officer of insurance companies in accordance with the pertinent provisions contained in the corporate governance circulars prescribed by the **BANGKO SENTRAL NG PILIPINAS**. In addition hereto, the **BANGKO SENTRAL NG PILIPINAS** shall prescribe the qualifications of directors, executive officers and other key officials of insurance companies for purposes of this section.

"No person shall concurrently be a Director and/or Officer of an insurance company and an adjustment company.

"Before issuing such certificate of authority, the **BANGKO SENTRAL NG PILIPINAS** must be satisfied that the name of the company is not that of any other known company transacting a similar business in the Philippines, or a name so similar as to be calculated to mislead the public. The **BANGKO SENTRAL NG PILIPINAS** may issue rules and regulations on the use of names of insurance companies and other supervised persons or entities.

"The certificate of authority issued by the **BANGKO SENTRAL NG PILIPINAS** shall expire on the last day of December, three (3) years following its date of issuance, and shall be renewable every three (3) years thereafter, subject to the company's continuing compliance with the provisions of this Code, circulars, instructions, rulings or decisions of the **BANGKO SENTRAL NG PILIPINAS**.

"Every company receiving any such certificates of authority shall be subject to the provisions of this Code and other related laws and to the jurisdiction and supervision of the **BANGKO SENTRAL NG PILIPINAS**.

"No insurance company may be authorized to transact in the Philippines the business of life and non-life insurance concurrently **[UNLESS SPECIFICALLY AUTHORIZED TO DO SO BY THE COMMISSIONER:]** *Provided*, That the terms *life* and *non-life* insurance shall be deemed to include health, accident and disability insurance.

X X X

"No insurance company issued with a valid certificate of authority to transact insurance business anywhere in the Philippines by the **BANGKO SENTRAL NG PILIPINAS** shall be barred, prevented, or disenfranchised

from issuing any insurance policy or from transacting any insurance business within the scope or coverage of its certificate of authority, anywhere in the Philippines, by any local government unit or authority, for whatever guise or reason whatsoever, including under any kind of ordinance, accreditation system, or scheme. Any local ordinance or local government unit regulatory issuance imposing such restriction or disenfranchisement on any insurance company shall be deemed null and void *ab initio*."

Section 11. Sections 200-201 of Republic Act No. 10607 are hereby amended to read as follows:

"Section 200. An insurance company doing business in the Philippines shall at all times maintain the minimum paid-up capital, **NET WORTH REQUIREMENTS AS REQUIRED IN SECTION 194, AND THE SOLVENCY AND SUPERVISORY REQUIREMENTS AS PRESCRIBED BY THE BANGKO SENTRAL NG PILIPINAS**. Such solvency requirements shall be based on internationally accepted solvency frameworks, **INCLUDING GROUP-WIDE SUPERVISION**, and adopted only after due consultation with the insurance industry associations.

Whenever the aforementioned requirement be found to be less than that herein required to be maintained, the **BANGKO SENTRAL NG PILIPINAS** shall forthwith direct the company to make good any such deficiency 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 (15) days from receipt of the order: x x x"

"Section 201. No domestic insurance corporation shall declare or distribute any dividend on its outstanding stocks unless it has met the minimum paid-up capital and net worth requirements under Section 194 **AND SOLVENCY AND SUPERVISORY REQUIREMENTS UNDER SECTION 200** and except from profits attested in a sworn statement to the Commissioner by the president or treasurer of the corporation to be remaining on hand after retaining unimpaired:

- (a) The entire paid-up capital stock;
- (b) The solvency requirements defined by Section 200;
- (c) In the case of life insurance corporations, the legal reserve fund required by Section 217;
- (d) In the case of corporations other than life, the legal reserve fund required by Section 219; and
- (e) A sum sufficient to pay all net losses reported, or in the course of settlement, and all liabilities for expenses and taxes.

Any dividend declared or distributed under the preceding paragraph shall be reported to the **BANGKO SENTRAL NG PILIPINAS** within thirty (30) days after such declaration or distribution.

If the **BANGKO SENTRAL NG PILIPINAS** finds that any such corporation has declared or distributed any such dividend in violation of this section, **IT** may order such corporation to cease and desist from doing business until the amount of such dividend or the portion thereof in excess

of the amount allowed under this section has been restored to said corporation.

The **BANGKO SENTRAL NG PILIPINAS** shall prescribe solvency requirements for branches of foreign insurance companies operating in the Philippines.”

Section 12. Section 202 of Republic Act No. 10607 is hereby amended to read as follows:

“Section 202. **WITHOUT PREJUDICE TO THE REQUIREMENTS UNDER SECTION 200 OF THIS CODE, THE BANGKO SENTRAL NG PILIPINAS SHALL PROVIDE REGULATIONS TO DETERMINE THE LISTS, RECOGNITION AND VALUATION OF ASSETS REQUIRED ON THE RISK BASED AND GROUP-WIDE SUPERVISORY FRAMEWORK. SUCH DETERMINATION OF THE REQUIREMENTS SHALL BE BASED ON INTERNATIONALLY ACCEPTED SOLVENCY AND SUPERVISORY FRAMEWORKS.**”

Section 13. Sections 204-207 of Republic Act No. 10607 are hereby deleted; and a new provision, Section 204, is inserted to read as follows:

“Section 204. **THE BANGKO SENTRAL NG PILIPINAS SHALL PRESCRIBE IN ITS REGULATIONS, EITHER GENERALLY OR IN SUCH CIRCUMSTANCES AND TO SUCH EXTENT AS MAY BE PRESCRIBED OR SPECIFIED:**

- (A) THE MANNER IN WHICH THE ASSETS OF ANY INSURANCE FUND OF A LICENSED INSURER ARE TO BE INVESTED AND THE PLACES IN WHICH SUCH ASSETS ARE TO BE MAINTAINED; AND**
- (B) THE NATURE OF THE ASSETS THAT IS APPROPRIATE IN RELATION TO THE CURRENCY IN WHICH THE LIABILITIES OF THE INSURER ARE OR MAY BE REQUIRED TO BE MET.**

THE BANGKO SENTRAL NG PILIPINAS, IN ESTABLISHING THE REQUIREMENTS FOR INVESTMENTS OF INSURANCE COMPANIES, SHALL ADDRESS AT A MINIMUM, THE SECURITY, LIQUIDITY, AND DIVERSIFICATION OF AN INSURER’S PORTFOLIO OF INVESTMENTS AS A WHOLE, INCLUDING GROUP-WIDE INVESTMENT SUPERVISION.

THE RECOGNITION, MEASUREMENT, AND VALUATION OF INVESTMENTS SHALL BE BASED ON THE FINANCIAL REPORTING FRAMEWORK AS ISSUED BY THE BANGKO SENTRAL NG PILIPINAS UNDER CHAPTER II-A OF THIS CODE.”

Section 14. Section 219 of Republic Act No. 10607 is hereby amended to read as follows:

“Section 219. **EVERY NON-LIFE INSURANCE COMPANY SHALL MAINTAIN AN ‘UNEARNED PREMIUM’ RESERVE AND ‘INCURRED BUT NOT YET REPORTED’ RESERVE ON ITS POLICIES IN FORCE, WHICH SHALL BE CHARGED AS A LIABILITY IN ANY DETERMINATION OF ITS FINANCIAL CONDITION. THE ‘UNEARNED PREMIUM’ AND ‘INCOME BUT NOT YET REPORTED’ RESERVES**

SHALL BE BASED ON GENERALLY ACCEPTED NON-LIFE RESERVING PRINCIPLES AS DETERMINED BY THE BANGKO SENTRAL NG PILIPINAS.”

Section 15. Section 221 of Republic Act No. 10607 is hereby amended to read as follows:

“Section 221. THE BANGKO SENTRAL NG PILIPINAS MAY ISSUE RULES AND REGULATIONS PROVIDING FOR A MAXIMUM LIMIT ON THE OVERALL RETAINED RISKS OF INSURERS TO SERVE AS A CATASTROPHE COVER REQUIREMENT FOR THE SAME.”

Section 16. Section 231-A is hereby inserted to Republic Act No. 10607, which shall read as follows:

“SECTION 231-A. THE BANGKO SENTRAL NG PILIPINAS SHALL ISSUE REGULATIONS REQUIRING INSURERS TO DISCLOSE RELEVANT, COMPREHENSIVE AND ADEQUATE INFORMATION ON A TIMELY BASIS IN ORDER TO GIVE POLICYHOLDERS AND MARKET PARTICIPANTS A CLEAR VIEW OF THEIR BUSINESS ACTIVITIES, PERFORMANCE AND FINANCIAL POSITION. THESE REGULATIONS SHALL BE FORMULATED WITH A VIEW OF ENHANCING MARKET DISCIPLINE AND AN UNDERSTANDING OF THE RISKS TO WHICH AN INSURER IS EXPOSED AND THE MANNER IN WHICH THOSE RISKS ARE MANAGED.”

Section 17. Section 251-A is hereby inserted to Republic Act No. 10607, which shall read as follows:

“SECTION 251-A. THE BANGKO SENTRAL NG PILIPINAS SHALL ENSURE AND REQUIRE THAT INSURERS AND INTERMEDIARIES TAKE EFFECTIVE MEASURES TO DETER, PREVENT, DETECT, REPORT, AND REMEDY FRAUD IN INSURANCE.

THE BANGKO SENTRAL NG PILIPINAS SHALL ISSUE A SUPERVISORY FRAMEWORK TO MONITOR AND ENFORCE COMPLIANCE BY INSURERS AND INTERMEDIARIES WITH THE REQUIREMENTS TO COUNTER FRAUD IN INSURANCE.”

Section 18. A new section, Section 252-A, is hereby inserted to Republic Act No. 10607 to read as follows:

“SECTION 252-A. EVERY COMPANY DOING TAKAFUL INSURANCE BUSINESS IN THE PHILIPPINES SHALL ANNUALLY MAKE A VALUATION OF ALL POLICIES IN ACCORDANCE WITH THE APPLICABLE STANDARDS REQUIRED BY SHARIA AND MUSLIM LAWS.

SUCH STANDARDS OF VALUATION SHALL ONLY BE ISSUED BY THE BANGKO SENTRAL NG PILIPINAS UPON CONSULTATION WITH THE INDUSTRY.”

Section 19. Section 441 of Republic Act No. 10607 is hereby deleted.

CHAPTER III FINAL PROVISIONS

Section 20. **Separability Clause.** – If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

Section 21. **Repealing Clause.** – All provisions of Republic Act No. 10607, other laws, decrees, executive orders, rules and regulations, and other issuances, or parts thereof, which are inconsistent with this Act are hereby repealed, amended, or modified accordingly.

Section 22. **Effectivity.** – This Act shall take effect fifteen (15) days after its complete publication either in the Official Gazette or in a newspaper of general circulation.

Approved,

