

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
NINETEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **9521**



Introduced by HON. GUS S. TAMBUNTING

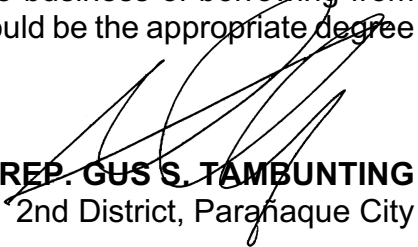
**AN ACT TO AMEND GENERAL BANKING LAW OF 2000 TO PROVIDE THE
STANDARD OF DILIGENCE OF BANKS**

EXPLANATORY NOTE

The General Banking Law of 2000 does not explicitly state the degree of diligence to be exercised by banks. Supreme Court Decisions are inconsistent with the language used in describing banks' degree of diligence, with some describing it as "high diligence", "higher diligence", "highest diligence", "more than the diligence of a good father of a family", and "extraordinary diligence". Curiously, "highest diligence" does not seem to equate with "extraordinary diligence", which creates further ambiguity and confusion.

This proposal intends to definitively settle the confusion, and state that banks' standard of diligence is "intermediate diligence", which is that degree of diligence that is "more than the diligence of a good father of a family but less than extraordinary diligence".

Since banks are impressed with public interest, they must exercise more than ordinary diligence in handling funds from the public. Nevertheless, extraordinary diligence should be reserved to common carriers and public utilities, because these industries involve the safety and security of lives and have near-monopolistic characteristics. The same cannot be said of banks, which are primarily in the business of borrowing from and lending to the public. Thus, intermediate diligence should be the appropriate degree of diligence.


REP. GUS S. TAMBUNTING
2nd District, Parañaque City

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OF DILIGENCE OF BANKS**

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

Section 1. *Short Title.* – This law shall be known as “*An Act to Provide the Standard of Diligence of Banks*”.

Section 2. *Declaration of Policy.* – It is hereby declared the policy of the State to promote financial stability, enhance public confidence in banking, and ensure the fair and responsible conduct of banking institutions, while recognizing the unique role of banks in the national economy.

Section 3. *Amendment of Section 6 of Republic Act No. 8791.* – Section 6 of Republic Act No. 8791 or the General Banking Law of 2000 is hereby amended to contain the following last paragraph:

“Section 6. *Authority to Engage in Banking and Quasi-Banking Functions.* – [x x x]

The standard of diligence required of banks, henceforth referred to as “intermediate diligence,” shall be defined as a level of diligence exceeding ordinary care or that expected of a good father of a family but less than extraordinary diligence. Intermediate diligence shall require reasonable and prudent level of care, attention, and caution, taking into account the specific circumstances and obligations of the parties, but not requiring the extreme and exceptional diligence demanded by the standard of extraordinary diligence. The presumption of fault shall not apply. Intermediate diligence shall be applicable to all banking functions encompassed by the bank’s license, including but not limited to bank products, trust products, investment management activities, loan products, and payment services. Further guidelines pertaining to intermediate diligence shall be provided by the *Bangko Sentral ng Pilipinas*, provided that nothing herein shall be construed to impose ordinary diligence or

extraordinary diligence on any or some banking functions covered by the bank's license."

Section 4. *Separability Clause*. – If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

Section 5. *Repealing Clause*. – All laws, decrees, executive orders, rules, and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 6. *Effectivity*. – This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,