

TWENTIETH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

*Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.*

House Bill No. **4712**

EXPLANATORY NOTE

The insurance industry is one which greatly affects national interests and our economy. Under Republic Act 10607 or the new Insurance Code, the Insurance Commissioner is given a wide array of powers and duties which basically means that he is the one regulating the entire insurance industry.

The law provides that, "The Insurance Commissioner shall have the duty to see that all laws relating to insurance, insurance companies and other insurance matters, mutual benefit associations, and trusts for charitable uses are faithfully executed and to perform the duties imposed upon him by this Code, and shall, notwithstanding any existing laws to the contrary, have sole and exclusive authority to regulate the issuance and sale of variable contracts as defined in Section 238 hereof and to provide for the licensing of persons selling such contracts, and to issue such reasonable rules and regulations governing the same."

There is a need to create a collegial body to regulate the insurance industry as it will bring stability in the Commission as its actions in setting policies and guidelines, as well as the exercise of its administrative and adjudicatory powers, would now require a majority vote of its members.

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


RUFUS B. RODRIGUEZ


MAXIMO B. RODRIGUEZ, JR.

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AN ACT

REORGANIZING AND CONVERTING THE INSURANCE COMMISSION INTO A COLLEGIAL BODY, AMENDING SECTIONS 437, 438, AND 439 OF REPUBLIC ACT NO. 10607, OTHERWISE KNOWN AS "THE INSURANCE CODE", AS AMENDED

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

SEC. 1. Section 437 of Republic Act No. 10607 is hereby amended to read as follows:

"SECTION 437. THIS CODE SHALL BE ADMINISTERED BY THE INSURANCE COMMISSION (HEREINAFTER REFERRED TO AS THE "COMMISSION") AS A COLLEGIAL BODY, COMPOSED OF A CHAIRPERSON AND (4) COMMISSIONERS, APPOINTED BY THE PRESIDENT FOR A TERM OF (6) SIX YEARS EACH AND WHO SHALL SERVES AS SUCH UNTIL THEIR SUCCESSOR SHALL HAVE BEEN APPOINTED AND QUALIFIED. A COMMISSIONER APPOINTED TO FILL A VACANCY OCCURRING PRIOR TO THE EXPIRATION OF THE TERM FOR WHICH HIS/HER PREDECESSOR WAS APPOINTED, SHALL SERVE ONLY FOR THE UNEXPIRED PORTION OF THEIR TERMS. UNLESS THE CONTEXT INDICATES OTHERWISE, THE TERM "COMMISSIONER" INCLUDES THE CHAIRPERSON. ALL PREVIOUS REFERENCES TO THE "INSURANCE COMMISSIONER" IN THE CODE SHALL HEREBY REFER TO THE "COMMISSION".

THE COMMISSIONERS MUST BE NATURAL-BORN CITIZENS OF THE PHILIPPINES, AT LEAST FORTY (40) YEARS OF AGE FOR THE CHAIRPERSON AND AT LEAST THIRTY-FIVE (35) YEARS OF AGE FOR THE COMMISSIONERS, OF GOOD MORAL CHARACTER, OR UNQUESTIONABLE INTEGRITY, OF KNOWN PROBITY AND PATRIOTISM, AND WITH RECOGNIZED COMPETENCE IN THE INSURANCE INDUSTRY. IF A COMMISSIONER IS REMOVED BEFORE THE EXPIRATION OF HIS/HER TERM OF OFFICE, THE REASON FOR THE REMOVAL MUST BE PUBLISHED.

THE CHAIRPERSON IS CHIEF EXECUTIVE OFFICER OF THE COMMISSION. THE CHAIRPERSON SHALL EXECUTE AND ADMINISTER THE POLICIES, DECISIONS, ORDERS AND RESOLUTIONS APPROVED BY THE COMMISSION AND SHALL HAVE THE GENERAL EXECUTIVE DIRECTION AND SUPERVISION OF THE WORK AND OPERATION OF THE COMMISSION AND ITS MEMBERS, BODIES, BOARDS, OFFICES, PERSONNEL AND ALL ITS ADMINISTRATIVE BUSINESS.

THE SALARY OF THE CHAIRPERSON AND THE COMMISSIONERS SHALL BE FIXED BY THE PRESIDENT OF THE PHILIPPINES BASED ON THE OBJECTIVE CLASSIFICATION SYSTEM AT A SUM COMMENSURATE IMPORTANCE AND RESPONSIBILITIES ATTACHED TO THE POSITION.

THE COMMISSION SHALL HOLD MEETINGS AT LEAST ONCE A WEEK FOR THE CONDUCT OF BUSINESS OR AS OFTEN AS MAY BE NECESSARY UPON THE CALL OF THE CHAIRPERSON OR UPON THE REQUEST OF (3) COMMISSIONERS. THE NOTICE OF THE MEETING SHALL BE GIVEN TO ALL COMMISSIONERS AND THE PRESENCE OF THREE (3) COMMISSIONERS SHALL CONSTITUTE A QUORUM. IN THE ABSENCE OF THE CHAIRPERSON, THE MOST SENIOR COMMISSIONER SHALL ACT AS PRESIDING OFFICER OF THE MEETING.

THE COMMISSION MAY, FOR PURPOSES OF EFFICIENCY, DELEGATE ANY OF ITS FUNCTIONS TO ANY DEPARTMENT OR OFFICE OF THE COMMISSION, AN INDIVIDUAL COMMISSIONER OR STAFF MEMBER OF THE COMMISSION EXCEPT ITS REVIEW OR APPELLATE AUTHORITY AND ITS POWER TO ADOPT, ALTER AND SUPPLEMENT ANY RULE OR REGULATION. THE COMMISSION MAY REVIEW UPON ITS OWN INITIATIVE OR UPON THE PETITION OF ANY INTERESTED PARTY ANY ACTION OF ANY DEPARTMENT OR OFFICE, INDIVIDUAL COMMISSIONER, OR STAFF MEMBER OF THE COMMISSION.

THE COMMISSION SHALL BE UNDER THE DIRECT CONTROL AND SUPERVISION BY THE BANGKO SENTRAL NG PILIPINAS.”

SEC. 2. A new section, Section 437-A, is hereby inserted to Republic Act No. 10607 to read as follows:

“**Section 437-A.** The **COMMISSION** shall have the duty to see that all laws relating to insurance, insurance companies and other insurance matters, mutual benefit associations, and trusts for charitable uses are faithfully executed and to perform the duties imposed by this Code, and shall, notwithstanding any existing laws to the contrary, have sole and exclusive authority to regulate the issuance and sale of variable contracts as defined in Section 238 hereof and to provide for the licensing of persons selling such contracts, and to issue such reasonable rules and regulations governing the same.

The **COMMISSION** may issue such rulings, instructions, circulars, orders and decisions as may be deemed necessary to secure the enforcement of the provisions of this Code, to ensure the efficient regulation of the insurance industry in accordance with global best practices and to protect the insuring public. Except as otherwise specified, decisions made by the **COMMISSION** shall be appealable to the **GOVERNOR OF THE BANGKO SENTRAL NG PILIPINAS**.

In addition to the foregoing, the **COMMISSION** shall have the following powers and functions:

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(g) Punish for contempt of the **COMMISSION**, both direct and indirect, in accordance with the pertinent provisions of and penalties prescribed by the Rules of Court;

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(o) To fix and assess fees, charges and penalties as the **COMMISSION** may find reasonable in the exercise of regulation; and

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The Commission shall indemnify the **COMMISSIONERS** and other officials of the Commission, including personnel performing supervision and examination functions, for all costs and expenses reasonably incurred by such persons in connection with any civil or criminal actions, suits or proceedings to which they may be made a party to by the reason of the performance of their duties and functions, unless they are finally adjudged in such actions, suits or proceedings to be liable for negligence or misconduct.

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The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the Commission in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the **COMMISSIONERS**, officer or employee to repay the amount advanced should it ultimately be determined by the Commission that the person is not entitled to be indemnified.

SEC. 3. Section 438 of Republic Act No. 10607 is hereby amended to read as follows:

“**Section 438.** In addition to the administrative sanctions provided elsewhere in this Code, the Insurance **COMMISSION** is hereby authorized, at **ITS** discretion, to impose upon insurance companies, their directors and/or officers and/or agents, for any willful failure or refusal to comply with, or violation of any provision of this Code, or any order, instruction, regulation, or ruling of the Insurance **COMMISSION**, or any commission or irregularities,

and/or conducting business in an unsafe or unsound manner as may be determined by the Insurance **COMMISSION**, the following:

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SEC. 4. Section 439 of Republic Act No. 10607 is hereby amended to read as follows:

"Section 439. The **COMMISSION** shall have the power to adjudicate claims and complaints involving any loss, damage or liability for which an insurer may be answerable under any kind of policy or contract of insurance, or for which such insurer may be liable under a contract of suretyship, or for which a reinsurer may be sued under any contract of reinsurance it may have entered into; or for which a mutual benefit association may be held liable under the membership certificates it has issued to its members, where the amount of any such loss, damage or liability, excluding interest, cost and attorney's fees, being claimed or sued upon any kind of insurance, bond, reinsurance contract, or membership certificate does not exceed in any single claim Five million pesos (P5,000,000.00).

"The power of the **COMMISSION** does not cover the relationship between the insurance company and its agents/brokers but is limited to adjudicating claims and complaints filed by the insured against the insurance company.

"The **COMMISSION** may authorize any officer or group of officers under him to conduct investigation, inquiry and/or hearing and decide claims and he may issue rules governing the conduct of adjudication and resolution of cases. The Rules of Court shall have suppletory application.

"The party filing an action pursuant to the provisions of this section thereby submits his person to the jurisdiction of the **COMMISSION**. The **COMMISSION** shall acquire jurisdiction over the person of the impleaded party or parties in accordance with and pursuant to the provisions of the Rules of Court.

"The authority to adjudicate granted to the **COMMISSION** under this section shall be concurrent with that of the civil courts, but the filing of a complaint with the **COMMISSION** shall preclude the civil courts from taking cognizance of a suit involving the same subject matter.

"Any decision, order or ruling rendered by the **COMMISSION** after a hearing shall have the force and effect of a judgment. Any party may appeal from a final order, ruling or decision of the **COMMISSION** by filing with the **COMMISSION** within thirty (30) days from receipt of copy of such order, ruling or decision a notice of appeal to the Court of Appeals in the manner provided for in the Rules of Court for appeals from the Regional Trial Court to the Court of Appeals.

"For the purpose of any proceeding under this section, the **COMMISSION**, or any officer thereof designated [by him] is empowered to administer oaths and affirmation, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, documents, or contracts or other records which are relevant or material to the inquiry.

"A full and complete record shall be kept of all proceedings had before the **COMMISSION**, or the officers thereof designated by him, and all testimony shall be taken down and transcribed by a stenographer appointed by the **COMMISSION**.

"In order to promote party autonomy in the resolution of cases, the **COMMISSION** shall establish a system for resolving cases through the use of alternative dispute resolution.

SEC. 5. 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.

SEC. 6. Repealing Clause. – All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 7. 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,