

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5197



Introduced by
**Representatives Winston "Winnie" Castelo, Aniceto "John" D. Bertiz III, and
Mariano Michael M. Velarde, Jr.**

EXPLANATORY NOTE

Data from the Philippine Statistics Authority (PSA) show that the number of overseas Filipino workers (OFWs) who worked abroad at any time from April to September 2015 was estimated at 2.4 million. Bangko Sentral ng Pilipinas (BSP) statistics, on the other hand, show that in 2015, cash remittances from overseas Filipinos totalled \$25.607 billion.¹

In October 2016, President Rodrigo Duterte announced that he is considering the possibility of transforming the Philippine Postal Bank into a bank catering to remittances and other banking needs of Filipino migrant workers all over the world.² News reports reveal that the OFW Bank will be established through the acquisition by the Land Bank of the Philippines (LBP) of the Philippine Postal Savings Bank, which will be converted into a LBP subsidiary that will be owned 30 percent (30%) by OFWs.³

While the intent of the executive branch in facilitating the immediate establishment of the OFW Bank is laudable, the proposed scheme brings to light questions as to the propriety of buying a cash-strapped bank and passing it on as an OFW bank. Further, the use of LBP's funds to purchase the Postal Bank may divert the LBP from servicing its core clientele – the farmers, fisherfolks, and agricultural workers in the countryside.

Given the magnitude of the resources involved and the implication of the proposal on OFWs and their families, the undersigned proponents are of the opinion that the best way to create a bank that is truly for OFWs is through legislation. In this manner, all issues and concerns will be properly and meticulously threshed out, with the direct participation of all stakeholders, especially the OFWs themselves.

¹ Bangko Sentral ng Pilipinas, Overseas Filipinos' Remittances.

<http://www.bsp.gov.ph/statistics/keystat/ofw.htm>

² Duterte eyes transforming postal bank into an OFW bank. October 25, 2016.

<http://www.gmanetwork.com/news/story/586407/news/pinoyabroad/duterte-eyes-transforming-postal-bank-into-an-ofw-bank>

³ LandBank setting up OFW Bank by September 2017. December 20, 2016.

<http://www.dof.gov.ph/index.php/landbank-setting-up-ofw-bank-by-september-2017/>

This bill provides for the establishment of a banking institution for overseas Filipino workers and their families, to be known as the Overseas Filipino Workers' Bank. Under this bill, the capitalization of the Bank shall be advanced by the Overseas Workers Welfare Administration (OWWA), subject to reimbursement within three years. It also authorizes the bank to engage in banking practices in conformity with Islamic law, and act as official government depository with authority to maintain deposits of the government. Most importantly, the Bank is mandated to grant credit assistance in easy payment terms to Filipino workers who will be deployed for overseas employment in order to defray the payment of recruitment expenses including placement, documentation, and other fees. The proposed OFW Bank is also envisioned to enhance the investment potential of overseas workers as it is mandated to provide short- or long-term loans to OFWs for the establishment, rehabilitation or expansion of medium and small-scale enterprises.

Having such a specialty bank will provide an alternative yet viable economic financial and remittance institution for our modern-day heroes at the local and international levels. The OFW Bank will also provide fair competition towards the reduction of remittance and other transaction costs and provide a productive outlet for our overseas Filipinos' savings as bank investors and shareholders.

Foregoing considered, the immediate passage of this bill is earnestly sought.



WINNIE CASTELO



ANICETO R. BERTIZ III



MARIANO MICHAEL VELARDE

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**AN ACT CREATING THE OVERSEAS FILIPINO WORKERS BANK, AND
FOR OTHER PURPOSES**

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

**CHAPTER I
ESTABLISHMENT AND FUNCTIONS**

SECTION 1. *Short Title.* – This Act shall be known as the "Overseas Filipino
Workers (OFW) Bank Act."

SEC. 2. *Name, Purpose and Domicile.* There is hereby created a bank to be
known as the Overseas Filipino Workers Bank, hereinafter referred to as the "Bank."
The Bank shall be a corporate body and shall exist for a period of fifty (50) years
from the approval of this Act.

The primary purpose of the Bank shall be to provide banking services
principally to serve the medium and long-term needs of OFWs and their dependents;
Provided, however, that the pursuit of these objectives shall be undertaken within the
context of a financially viable and stable banking institutions.

The Bank's principal office and place of business shall be in the National
Capital Region, also known as Metro Manila. It may establish and maintain branches
and remittance centers in the provinces as well as overseas, as its Board of
Directors may deem advisable, with the prior approval of the Monetary Board of the
Bangko Sentral ng Pilipinas.

SEC. 3. *Corporate Powers.* The OFW Bank, upon its organization, shall be a
corporate body and shall have the power:

- (a) To prescribe its bylaws and its operating policies;
- (b) To adopt, alter and use a corporate seal;
- (c) To make contracts, to sue and be sued;

- (d) To acquire property, real or personal, which may be necessary or expedient for the proper conduct of its operation and introduce improvements thereon, and to sell, mortgage or otherwise dispose of the same;
- (e) To employ such officers and personnel, preferably from the qualified OFW sector, as may be necessary to carry out its banking business;
- (f) To perform the following banking services:
 - i. Open current or checking accounts and savings accounts;
 - ii. Accept such deposits as are allowed under existing law and Bangko Sentral ng Pilipinas regulations, including but not limited to demand, savings, and time deposits;
 - iii. Buy and sell foreign exchange;
 - iv. Act as correspondent of banks and institutions to handle remittances or any fund transfers;
 - v. Accept drafts and issue letters of credit or letters of guarantee, negotiate notes and bills of exchange and other evidence of indebtedness; and
 - vi. Undertake various banking transactions allowed by Islamic Shari'a in such a way that shall not permit the *haram* (forbidden), nor forbid the *halal* (permissible).
- (g) To grant short-term or long-term loans and advances preferably to Overseas Filipino Workers and their dependents against security and real estate and/or other acceptable assets for the establishment, rehabilitation or expansion of medium and small-scale enterprises as well as agricultural, commercial, or industrial enterprises;
- (h) To grant loan and credit assistance in easy payment terms to Filipino workers who will be deployed for overseas employment in order to defray the payment of recruitment expenses including placement, documentation, and other fees;
- (i) To accept and manage trust funds and properties and carry on the business of a trust corporation;
- (j) To acquire, receive, or hold by way of purchase or otherwise, public or private property for the purpose of undertaking housing projects preferably for the benefit of Filipino overseas workers and their dependents;
- (k) To provide, free of charge, investment advice and guidance to OFWs and their families;
- (l) To act as official government depository with authority to maintain deposits of the government, its subdivisions, branches, and instrumentalities, and of government-owned or controlled corporations, subject to such rules and regulations as the Monetary Board may prescribe;
- (m) To exercise the powers granted under this Charter and such incidental powers as may be necessary to carry on its business, and to exercise further the general powers mentioned in the Corporation Law and the General Banking Act, insofar as they are not inconsistent or incompatible with the provisions of this Charter.

Unless otherwise provided in this Charter, the exercise of the above-mentioned powers on banking shall be subject to applicable law, as well as regulations promulgated by the Bangko Sentral ng Pilipinas.

SEC. 4. *Definition.* For purposes of determining the OFWs entitled to benefit from this Act, the following definition of terms shall be used:

- (a) "*Overseas Filipino Worker (OFW)*" shall refer to a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State of which the person is not a citizen, or on board a vessel navigating the foreign seas other than a government ship used for military or non-commercial purposes, or on an installation located offshore or on the high seas; and
- (b) "*Dependent*" refers to any of the following:
 - (1) The legal spouse;
 - (2) The legitimate, illegitimate, legitimated, and legally adopted child, who is unmarried, not gainfully employed, and not over the age of majority, or is over the age of majority but incapacitated and incapable of self-support due to a mental or physical defect.

CHAPTER II CAPITAL RESOURCES OF THE BANK

SEC. 5. *Authorized Capital Stock Par Value.* The capital stock of the Bank shall be Two Billion Pesos (P2,000,000,000.00) to be divided into Twenty Million shares with par value of P100 per share. Fifty one percent (51%) of the total shares provided herein shall be common shares, while the remaining forty-nine percent (49%) shares shall be preferred.

The Government of the Republic of the Philippines shall, on behalf of the overseas contract workers, fully subscribe to the total common shares of the Bank. The amount necessary for the government's subscription shall be advanced by the Overseas Workers Welfare Administration (OWWA): Provided, that, the National Government shall, within a period of three (3) years, return to OWWA the amount herein before mentioned: *Provided further*, that OWWA shall hold and represent the shares corresponding to the amount it has advanced until it shall have been fully reimbursed from the sale of the stocks subscribed by the national government in favor of overseas contract workers.

SEC. 6. *Grants and Donations.* The Bank shall accept grants, donations, endowments, and subsidies, or funds and/or property offered by individuals and organizations, who may earmark such grants for a specific purpose or for such other purposes beneficial to OFWs and their families, without prejudice to the general objectives of the Bank.

The financial statement and books of accounts of such funds shall be maintained separately but may be supplemented to the Bank's balance sheet.

CHAPTER III MANAGEMENT OF THE BANK

SEC. 7. *Board of Directors.* The affairs and business of the Bank shall be directed and its properties managed and preserved and its corporate powers exercised, unless otherwise provided in this Act, by a Board of Directors consisting of nine (9) members, to be appointed by the President of the Philippines from a shortlist prepared by the Governance Commission for Government-Owned or – Controlled Corporations (GCG). The term of office of the Chairman, Vice-Chairman, and the members of the Board of Directors shall be for a period of one year, unless sooner removed for cause: *Provided, however,* That they shall continue to hold office until their successor is appointed.

SEC. 8. *Fit and Proper Rule.* To maintain the quality of bank management and afford better protection to its depositors and the public in general, the Monetary Board shall prescribe, pass upon and review the qualifications and disqualifications of individuals elected or appointed Bank directors or officers and disqualify those found unfit. After due notice to the board of directors of the Bank, the Monetary Board may disqualify, suspend or remove any bank director or officer who commits or omits an act which renders him unfit for the position. In determining whether an individual is fit and proper to hold the position of a director or officer of the Bank, regard shall be given to his integrity, experience, education, training, and competence.

SEC. 9. *Powers and Duties of the Board of Directors.* The Board of Directors shall have, among others, the following duties, powers and authority:

- (a) To formulate policies necessary to carry out effectively the provisions of this Charter and to prescribe, amend, and repeal by-laws, rules and regulations for the effective operation of the Bank, and the manner in which the general business of the Bank may be conducted and the powers granted by law to the Bank exercised;
- (b) To approve loans, to fix rates of interest on loans and to prescribe such terms and conditions for loans and credits as may be deemed necessary, consistent with the provisions of this Charter; *Provided,* that the Board may delegate the authority to approve loans to such officers as may be deemed necessary;
- (c) To adopt an annual budget for the effective operation and administration of the Bank;
- (d) To create and establish a "Provident Fund" which shall consist of contributions, made both by the Bank and its officers or employees, to a common fund for the payment of benefits to such officers or employees, or their heirs, under such terms and conditions as the Board of Directors may fix;
- (e) To compromise or release, in whole or in part, any claim or settled liability to the Bank regardless of the amount involved, under such terms and conditions it may impose to protect the interests of the Bank. This authority to compromise shall extend to claims against the Bank; and

- (f) To appoint, promote or remove officers from the rank of Vice President or its equivalent, and other more senior officer positions, excluding the Chairman and the Vice Chairman.

SEC. 10. *Chairman and Chief Executive Officer.* The Chairman shall be the Chief Executive Officer of the Bank and as such, shall, on behalf of the Board, have the direction and control of the business affairs and properties of the Bank in all matters which are not by this Charter or by the By-Laws of the Bank specifically reserved to be done by the Board or other officers of the Bank. For this purpose, he shall, among other powers and duties, execute, carry out, and administer the policies, measures, orders, and resolutions approved by the Board; direct and supervise the operation and administration of the Bank; and exercise such other powers and perform such other functions or duties as may be directed or assigned to him by law or by the Board from time to time.

Particularly, he shall have the power and duty:

- (a) To sign and execute all contracts concluded by the Bank and enter into all necessary obligations required or permitted by this Charter, upon proper authorization by the Board; and sign all notes, securities certificates, and other major documents of the Bank;
- (b) To exercise, as Chief Executive Officer of the Bank, the powers of control and supervision over decisions and actions of subordinate officers and all other powers that may be granted by the Board;
- (c) To report to the Board the main facts concerning the operations of the Bank and to recommend changes in policies which he may deem advisable;
- (d) To submit an annual report to the President of the Philippines on the result of the operations of the Bank;
- (e) To recommend to the Board the appointment, promotion, or removal of all officers of the Bank, with the rank of at least vice-president or its equivalent;
- (f) To appoint, promote or remove employees and officers below the rank of vice-president or its equivalent; Provided, that promotions, transfers, assignments or reassignments of officers and personnel of the Bank are personnel actions deemed made in the interest of the service and not disciplinary, any provision of the Civil Service Law to contrary notwithstanding; and
- (g) As required by circumstances, to delegate any of his powers, duties or functions to any officer or director of the Bank, with the approval of the Board.

SEC. 11. *Vice Chairman and Chief Operating Officer.* The Vice Chairman shall be the Chief Operating Officer of the Bank and shall assume and exercise such specific duties and responsibilities as may be delegated to him by the Chairman.

SEC. 12. *Staffing Pattern and Employee Remuneration.* The Board of Directors shall determine the organizational structure and staffing pattern of the Bank. The salaries, emoluments and other benefits of the Bank's officers and employees shall be in accordance with the compensation and position classification

system for government-owned or –controlled corporations (GOCCs) as approved by the President of the Philippines, upon recommendation by the GCG.

CHAPTER IV BANKING OPERATIONS

SEC. 13. *Loans and other Investments.* Loans and other investments of the Bank shall be subject to the same limits and ceilings applicable to banks of its category under existing provisions of law and regulations promulgated by the Monetary Board.

SEC. 14. *Issuance of Bonds.* The Bank may issue all kinds of bonds, debentures, and securities, and/or the renewal or refunding thereof within and/or outside the Philippines, at such terms, rates, and conditions as the Board of Directors of the Bank may determine, subject to compliance with the provisions of applicable law, and rules and regulations promulgated by the Monetary Board.

The Bank shall provide for appropriate reserves for the redemption or retirement of the bonds. These bonds and other obligations shall be redeemable at the option of the Bank at or before maturity and in such manner as may be stipulated therein and shall bear such rate of interest as may be fixed by the Bank.

Such obligations shall be secured by the assets of the Bank, including the stocks, bonds, debentures, and other securities purchased or held by it under the provisions of this Charter. These bonds and debentures may be long-term, medium, or short-term, with fixed interest rate or floating interest rate.

SEC. 15. *Legal Matters and Cases.* The Bank shall have its own Legal Department, the head of which shall be appointed by the Board of Directors of the Bank upon recommendation of the Chairman.

In appropriate cases, the Bank may avail also of the legal services of any government legal office authorized to render such services to government-owned or controlled corporations.

The Bank may, upon the recommendation of its Chief Legal Counsel, deputize any member of its legal staff to act as special sheriff in foreclosure cases, in the sale or attachment of the debtor's properties and in the enforcement of court writs and processes in cases involving the Bank. The special sheriff of the Bank shall make a report to the proper court after any action taken by him, which shall treat such action as if it were an act of its own sheriffs in all respects.

SEC. 16. *Independent Auditor.* The Bank shall engage the services of an independent auditor to be chosen by the Bank from a list of certified public accountants acceptable to the Monetary Board. The term of the engagement shall be as prescribed by the Monetary Board which may either be on a continuing basis where the auditor shall act as resident examiner, or on the basis of special engagements, but in any case, the independent auditor shall be responsible to the Bank's Board of Directors.

SEC. 17. *Examination of the Bank.* The Bank shall be subject to supervision and examination by the appropriate department of the Bangko Sentral ng Pilipinas.

SEC. 18. *Tax Exemption.* The Bank assets, profits distributions and all contracts, deeds documents and transactions related to the conduct of its business shall be exempted from all taxes under the National Internal Revenue Code to commence from the first taxable year, following its actual banking operation as certified by the Bangko Sentral ng Pilipinas, to the extent as herein made allowable:

- (a) One hundred per centum (100%) for the first five (5) years; and
- (b) Seventy-five per centum (75%) for the sixth through the eight year: Provided, however, that said exemption shall apply only to such taxes, fees, charges and assessments for which the Bank would otherwise be liable, and shall not apply to the taxes, fees, charges or assessments payable by persons or other entities doing business with the Bank.

SEC. 19. *Exemption from Customs Duties.* Within the first five (5) years of operation of the Bank, all importations by the Bank of machinery, equipment, calculators and computers and accompanying spare parts, as may be necessary for its operation, shall be exempted from customs duties and taxes payable thereon: Provided, however, that same shall not be disposed of domestically unless payment is made of all duties thereof at the tariff rates and according to their condition at the time of disposal and upon compliance with all import and exchange procedures.

CHAPTER V PROHIBITIONS AND RESTRICTIONS

SEC. 20. *Inhibition from Board Meeting of Member with Personal Interest.* Whenever any member attending a meeting of the Board of Directors has a direct personal interest in the discussion or resolution of any given matter, or any of his relatives within the second civil degree or consanguinity or second civil degree of affinity has such an interest, said member shall not participate in the discussion or resolution of the matter and must retire from the meeting during the deliberation thereon.

For this purpose, the member of the Board shall, at the beginning of their respective terms, disclose to the board any and all interests they may have in any corporation, partnership or association and shall, thereafter, disclose to the Board any charges thereto.

SEC. 21. *Borrowing by Directors, Officer and Employees Restriction and Limitation.* No director or officer or employees of the Bank or any corporation, partnership, or company wherein any member of the Board of Directors, officer or employee, and/or their respective immediate family is a controlling shareholder, or wherein he is a director or officer shall, either directly or indirectly, for himself or as representative or agent of others, borrow any of the deposits of funds from the bank, nor shall he become a guarantor, or in any manner be an obligor for money borrowed from the bank or loaned by it.

SEC. 22. *Rules and Regulations on Conflict of Interest.* The foregoing provisions notwithstanding and in addition thereto, the Board of Directors is hereby authorized to issue rules and regulations for the purposes of determining and resolving conflict of interest questions, which rules shall, in particular, include the requirement on all officers and employees of the Bank to disclose any shareholdings they, or their relatives within the second civil degree of consanguinity or second civil degree of affinity, may have in any corporation, partnership, or company in excess of two percent (2%) of the equity of said corporation, partnership, or company.

SEC. 23. *Prohibited Transactions.* No director, officer, employee, or agent of any bank shall:

- (a) Make false entries in any bank report or statement or participate in any fraudulent transaction, thereby affecting the financial interest of, or causing damage to, the bank or any person;
- (b) Without order of a court of competent jurisdiction, disclose to any unauthorized person any information relative to the funds or properties in the custody of the bank belonging to private individuals, corporations, or any other entity. *Provided*, That with respect to bank deposits, the provisions of existing laws shall prevail; *Provided further*, That this prohibition shall not apply to the exchange of confidential credit information among government financial institutions or among banks, in accordance with established banking practices or as may be allowed by law;
- (c) Overvalue or aid in overvaluing any security for the purpose of influencing in any way the actions of the bank or any bank; or
- (e) Outsource inherent banking functions.

SEC. 24. *Exaction of Fee, Commission, Gift or Charge.* No fee, commission, gift, or charge of any kind shall be exacted, demanded, or paid, for obtaining loans from the Bank, and any officer, employee, or agent of the Bank found guilty of exacting, demanding, or receiving any fee services in obtaining a loan, shall be punished as hereinafter provided for violation of this Act.

CHAPTER VI PENAL PROVISIONS

SEC. 25. *Penal Provisions of General Banking Law.* The penal provisions of Section 66 of the General Banking Law shall be applicable to officers, employees and borrowers of the Bank.

SEC. 26. *General Penal Provisions.* Any officer or employee of the Bank who violates, or permits any of the officers, employees or agents of said Banks or any other person to violate, any of the provision of this Chapter not specifically punished in the preceding section and any person violating any provision of this Act or aiding and abetting the violation thereof, shall be punished with a fine not less than One hundred thousand pesos (P100,000.00) nor more than Two hundred thousand pesos (200,000.00), or by imprisonment of not less than one (1) year nor more than five (5) years, or both, at the discretion of the court.

SEC. 27. *Other Liability of Guilty Officer or Employee.* Any member of the Board of Directors or officer or employee of the Bank who wilfully violates any of the provisions of this Act shall, in addition to the criminal and administrative liability resulting from such act, be held liable for any loss or injury suffered by the Bank as a result of such violation.

SEC. 28. *Liability of Directors, Officers or Partners of Offending Corporation or Partnership.* If the violation of the provisions of this Act is committed by a corporation or partnership, the directors, officers or partners hereof who participated in the violation shall be criminally liable for such violation.

CHAPTER VII MISCELLANEOUS PROVISIONS

SEC. 29. *Applicability of Banking Laws.* The provisions of Republic Act No. 8791 insofar as applicable and not in conflict with any provision of this Act, shall apply to the Bank.

SEC. 30. *Separability Clause.* In the event that any provision of this Act or the applicability of such provisions to any person or circumstances is declared invalid, the remainder of the Act or the application of said provision to other persons or circumstances shall not be affected by such declaration.

SEC. 31. *Repealing Clause.* All acts, executive orders, administrative orders, proclamations, rules and regulations or parts thereof inconsistent with any of the provisions of this charter are hereby repealed or modified accordingly.

SEC. 32. *Effectivity.* This Act shall take effect after fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,