

**Emergency Decree Amending the Commercial Banking Act B.E. 2505
(No. 3), B.E. 2540**

Translation

Principle

To amend the Act to empower the Bank of Thailand to facilitate and expedite the process of capital reduction and increase in the case of troubled commercial banks, and to change the management of commercial banks (amendments to Section 24 bis and Section 24 ter).

Rationale

Whereas it is not possible, as quickly as the situation may require, under the present laws to resolve the problem of commercial banks experiencing such problems in their financial position or operations that damage may be caused to the public;

Whereas any delay of the process may render widespread damage to the country's overall economy;

Whereas the Bank of Thailand should be empowered to expeditiously resolve any crisis in a commercial bank, and to take urgent actions to restore the stability of the economy;

And whereas this is a situation which must be urgently addressed in order to preserve the economic stability of the country;

Now therefore, the Emergency Decree is enacted.

BHUMIBHOL ADULYADEJ, REX.,

Given on the 22nd day of October B.E. 2540;

Being the 52nd Year of the Present Reign

By Royal Command of His Majesty King Bhumibhol Adulyadej, it is hereby proclaimed that:

Whereas it is deemed necessary to *revise* the law on commercial banking;

Be it, therefore, enacted by His Majesty the King, by virtue of Section 218 of the Constitution of the Kingdom of Thailand, as follows:

Section 1

This Emergency Decree shall be called the "Emergency Decree Amending the Commercial Banking Act B.E. 2505, (No. 3) B.E. 2540".

Section 2

This Emergency Decree shall come into force on and from the day following the date of its publication in the Government Gazette.

Section 3

The provisions of paragraph four Section 24 bis of the Commercial Banking Act, B.E.2505 as amended by the Emergency Decree Amending the Commercial Banking Act, B.E. 2505 B.E. 2528 shall be repealed and replaced by the following:

"The increase or reduction of capital under the second or third paragraph or the offering of shares issued to increase capital shall not be subject to Section 1117, Section 1220, Section 1222, Section 1224, Section 1225, and Section 1226 of the Civil and Commercial Code, and Section 50, Section 136 paragraph two (2), Section 137, Section 139, and Section 141 of the Public Company Limited Act, B.E. 2535, as the case may be."

Section 4

Section 24 ter of the Commercial Banking Act, B.E. 2505 as amended by the Emergency Decree Amending the Commercial Banking Act, B.E. 2505, B.E. 2528 shall be repealed and replaced by the following:

“Section 24 ter

Where there is evidence that the condition or operation of any commercial bank is such that damage may be caused to the public interest, or where the directors, managers or persons responsible for the operation of any commercial bank fail to comply with the order of the Bank of Thailand under Section 24 bis, the Bank of Thailand shall have power to order such commercial bank to remove the directors or persons who were responsible to the operations of the commercial bank and for having caused such damage.

Where the Bank of Thailand orders the removal of any persons under the first paragraph, the commercial bank shall, with the approval of the Bank of Thailand, appoint persons to replace the persons so removed within 30 days from the removal date.

Where any commercial bank fails to remove the persons under the first paragraph or fails to appoint other persons in place of persons so removed as specified in the second paragraph, the Bank of Thailand, with the approval of the Minister, shall have the power to remove such persons or appoint one or more persons to replace the persons so removed.

Where there is an urgent need to rectify the financial condition or the operation of any commercial bank such that any delay may cause damage to the public interest, the Bank of Thailand, with the approval of the Minister, shall have the power to immediately remove directors, managers or persons responsible for the operation of the commercial bank and appoint one or more persons to replace the persons so removed as appropriate.

The person or persons appointed by the Bank of Thailand under the third or fourth paragraphs shall hold office for a period of no longer than three years. The provisions of Section 12 quarter (8) shall not be applied. The appointed persons shall be entitled to remuneration to be paid from the commercial bank as prescribed by the Minister. During the period that the appointed persons hold office, shareholders of the commercial bank shall not pass a resolution to revoke or change the order of the Bank of Thailand.

The persons removed by the order of the Bank of Thailand shall no longer be involved in, or manage, directly or indirectly, any affair of the commercial bank, and shall facilitate and provide information to the persons appointed in their places or as requested by the bank examiners.

The order of the Bank of Thailand for dismissal or appointment issued by virtue of this Section shall be deemed to be a resolution of shareholders' meeting.”

Countersigned by

General Chavalit Yongchaiyudh

Prime Minister

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