

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3126

Introduced by the Hon. Robert Ace S. Barbers

EXPLANATORY NOTE

Many small scale miners are seeking for an updated, revised and improved version of the small scale mining law in the Philippines. This legislative measure is a response to said clamor.

Republic Act (RA) No. 7076 or the People's Small Scale Mining Act, mandates that "The State shall promote, develop, protect and rationalize viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation's wealth and national resources." This objective, however, has not yet come to fruition more than a decade after RA 7076 was enacted.

RA 7076 need to be further improved, although it does recognize that small scale mining has always been part of the economic activities of the early Filipinos

RA 7076 needs more relevant provisions. Technology, for example, can be transferred not only in mineral resources resource extraction but also in environmental protection and that Filipinos have the capacity to adapt to technological changes. But because RA 7076 does not recognize this, Filipino miners are discouraged from expanding their operations through investments in modern equipment.

This bill would also sub-categorize small scale mining into regular small-scale mining and artisanal mining.

Artisanal mining retains the RA 7076 definition of small-scale mining which refers to mining activities that heavily rely on manual labor using simple implements and methods and without the use of explosives or heavy mining equipment.

Regular small-scale mining is defined as those activities of small-scale miners which utilize modern mining technology, heavy equipment and explosives. These operations are supervised or managed by duly licensed mining engineers and the use of explosives is supervised or managed by a licensed blaster or blasting contractor. Regular small-scale mining in this proposed amendment operationally defines medium-scale mining, which is an acknowledged gap in our mining laws.

Regular small-scale mining recognizes the Filipino capability to undertake mining activities similar to large-scale operators.

This measure also provides that small-scale miners may organize themselves into partnerships, corporations or cooperatives.

Assistance to our small-scale mining operators will benefit our economy, probably even more than the touted foreign-dominated large scale mining industry.

With Filipino citizens investing directly in this sector, we will no longer be threatened with investor pull-out at the first sign of political uncertainty. We also ensure that one hundred percent of the income derived from mineral operations will remain in the country, thus available as capital for other industries.

For this reason, approval of this bill is earnestly sought.



ROBERT ACE S. BARBERS

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AN ACT
AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 7076 OR THE
PEOPLE'S SMALL-SCALE MINING ACT OF 1991, AND FOR OTHER PURPOSES

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

SECTION 1. Sections 2, 3, 5, 8, 9, 10, 11, 12, 13, 14, 16, 19, 20, 22, 23, 24, 25 and 26
of Republic Act No. 7076, otherwise known as the People's Small-Scale Mining Act of
1991" is hereby amended to read as follows:

"Section 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
FULLY DEVELOP, STRENGTHEN, AND RATIONALIZE THE SMALL-SCALE
MINING INDUSTRY IN ORDER TO HARNESS ITS VAST POTENTIALS TO HELP
HASTEN NATIONAL ECONOMIC RECOVERY AND GROWTH; to generate more
employment AND MORE ECONOMIC opportunities and provide an equitable sharing
of the nation's wealth and natural resources, giving due regard to existing rights as herein
provided."

"Section 3. *Definitions.* - For purposes of this Act, the following terms shall be
defined as follows:

a) "Mineralized areas" refer to areas with naturally occurring mineral deposits of
gold, silver, chromite, kaolin, silica, marble, gravel, clay and like mineral resources;

b) "SMALL SCALE MINING" REFERS TO SMALL-SCALE TYPE OF
MINING ACTIVITIES CATEGORIZED AS ARTISANAL AND REGULAR SMALL-
SCALE MINING.

B.1 "ARTISANAL MINING" REFERS TO MINING
ACTIVITIES WHICH HEAVILY RELY ON
MANUAL LABOR USING SIMPLE IMPLEMENTS AND METHOD

AND DO NOT USE EXPLOSIVES OR HEAVY MINING EQUIPMENT.

B.2. REGULAR SMALL-SCALE MINING REFERS TO MINING ACTIVITIES OF SMALL-SCALE MINERS, WHICH MAY USE OR EMPLOY MODERN MINING TECHNOLOGIES, HEAVY EQUIPMENT AND EXPLOSIVES; WHOSE OPERATION IS SUPERVISED OR MANAGED BY A DULY LICENSED MINING ENGINEER AND ITS USE OF EXPLOSIVE IS SUPERVISED OR MANAGED BY A PHILIPPINE NATIONAL POLICE-LICENSED BLASTER OR BLASTING CONTRACTOR. THESE SMALL-SCALE MINERS MAY ORGANIZE THEMSELVES INTO A PARTNERSHIP, CORPORATION OR COOPERATIVE, TO QUALIFY FOR SMALL-SCALE MINING CONTRACT.

(c) "Small-scale miners" refer to Filipino citizens who, individually or in the company of other Filipino citizens REGISTER AS A PARTNERSHIP, COOPERATIVE, OR CORPORATION, DULY LICENSED BY CONCERNED GOVERNMENT AGENCY to engage, under the terms and conditions of a contract, in the extraction or removal of minerals or ore-bearing materials from the ground;

(d) "Small-scale mining contract" refers to co-production, joint venture or mineral production sharing agreement between the State and a small-scale mining contractor for the small-scale utilization of a plot of mineral land;

(e) "Small-scale mining contractor" refers to an individual or a PARTNERSHIP, CORPORATION, cooperative of small-scale miners, registered with appropriate government agencies, which has entered into an agreement with the State for the small-scale utilization of a plot of mineral land within a people's small-scale area;

(f) "Active mining area" refers to areas WHEREIN ALL THE FOLLOWING ACTIVITIES HAVE BEEN ACTUALLY UNDERTAKEN; ACTUAL MINERAL EXPLORATION WORKS, DEVELOPMENT, EXPLOITATION, AND COMMERCIAL PRODUCTION AS DETERMINED BY THE BOARD after the necessary field investigation or verification including contiguous and geologically related areas belonging to the same claimowner and/or under contract with an operator, but in no case to exceed the maximum area allowed by law;

(g) "Existing mining right" refers to perfected and subsisting claim, lease, license or permit covering a mineralized area prior to its declaration as a people's small-scale mining area;

(h) "Claimowner" refers to a holder of an existing mining right;

(i) "Processor" refers to a person issued a license to engage in the treatment of minerals or ore-bearing materials such as by gravity concentration, leaching, beneficiation, cyanidation, cutting, sizing, polishing and other similar activities;

(j) "License" refers to the privilege granted to a person to legitimately pursue his occupation as a small-scale miner or processor under this Act;

(k) "Mining plan" refers to a two-year program of activities and methodologies employed in the extraction and production of minerals or ore-bearing materials, including the financial plan and other resources in support thereof;

(l) "Director" refers to the Regional **DIRECTOR OF THE MINES AND GEO-SCIENCES BUREAU**, and

(m) "Secretary" refers to the Secretary of the Department of Environment and Natural Resources."

"SEC. 5. Declaration of People's Small-scale Mining Areas.- The Board is hereby authorized to declare and set aside people's small-scale mining areas in sites onshore suitable for small-scale mining subject to review by the Secretary, immediately giving priority to areas already occupied and actively mined by the small-scale miners before August 1, 1987: *Provided*, That such areas are not considered as active mining areas **AS DETERMINED BY THE BOARD**: *Provided, further*, That the minerals found therein are technically and commercially suitable for small-scale mining activities: *Provided, finally*, That the areas are not covered by existing forest rights or reservations and have not been declared as tourist or marine reserves, parks and wildlife reservations, unless their status as such is withdrawn by competent authority."

"SEC. 8. Registration of Small-scale Miners.- All persons undertaking small-scale mining activities shall register as small-scale miners with the Board. They may organize themselves into **PARTNERSHIPS, CORPORATIONS OR** cooperatives in order to apply for a people's small-scale mining contract."

"SEC. 9. Award of People's Small-scale Mining Contract.- A people's small-scale mining contract may be awarded by the Board to small-scale miners who have voluntarily organized and have duly registered with the appropriate government agency as an individual miner, **PARTNERSHIP, CORPORATION** or cooperative: *Provided*, That only one (1) people's small-scale mining contract may awarded at any one time to a small-scale mining contractor who shall start mining operations within one (1) year from the date of award."

“Applications for a contract shall be subject to a reasonable fee to be paid to the Department of Environment and Natural Resources regional office having jurisdiction over the area.”

“SEC. 10. *Extent of Contract Area.*- The Board shall determine the reasonable size and shape of the contract area following the meridional block system established under Presidential Decree No. 463, as amended, otherwise known as the Mineral Resources Development Decree of 1974, but in no case shall exceed THE MAXIMUM AREA AS SPECIFIED HEREUNDER.

“THE MAXIMUM AREA THAT A QUALIFIED CONTRACT MAY APPLY UNDER ARTISANAL MINING, SHALL BE AS FOLLOWS:

10.1 ONSHORE, IN ANY ONE (1) PROVINCE/CITY:
FOR INDIVIDUALS, ONE FOURTH (1/4) MERIDIONAL BLOCK OR APPROXIMATELY TWENTY (20) HECTARES.

FOR PARTNERSHIPS, COOPERATIVES OR CORPORATION, ONE (1) MERIDIONAL BLOCK OR APPROXIMATELY EIGHTY ONE (81) HECTARES IN AREA.

THE MAXIMUM AREA THAT A QUALIFIED INDIVIDUAL, PARTNERSHIP, COOPERATIVE OR CORPORATION MAY APPLY UNDER REGULAR SMALL-SCALE MINING, SHALL BE AS FOLLOWS:

10.2. ONSHORE IN ANY ONE (1) PROVINCE/CITY:
FOR INDIVIDUALS, TWO (2) MERIDIONAL BLOCKS OR APPROXIMATELY ONE HUNDRED SIXTY TWO (162) HECTARES IN AREA.

FOR PARTNERSHIPS, COOPERATIVES OR CORPORATIONS, THIRTY (30) MERIDIONAL BLOCKS IN AREA.

IN DETERMINING THE SIZE AND SHAPE OF THE CONTRACT AREA, THE BOARD SHALL ALSO TAKE INTO ACCOUNT THE FOLLOWING CIRCUMSTANCES:

1) FINANCIAL CAPABILITY OF THE SMALL-SCALE MINING CONTRACT APPLICANT;

2) Size of mineralized area;

3) Quantity of mineral deposits;

4) Safety of miners;

5) Environmental impact and other considerations; and

6) Other related circumstances.”

“SEC. 11. *Easement Rights.*- Upon the declaration of a people’s small-scale mining area, the BOARD, in consultation with the operator, claim owner landowner or lessor of an affected area, shall

determine the right of the small-scale miners to existing facilities such as mining and logging roads, private roads, port and communication facilities, processing plants which are necessary for the effective implementation of the People's Small-scale Mining program subject to payment of reasonable fees to the operator, claim owner, landowner or lessor."

"SEC. 12. *Rights Under a People's Small-scale Mining Contract.*- A people's small-scale mining contract entitles the small-scale mining contractor to the right to mine, extract and dispose of mineral ores for commercial purposes. A SMALL-SCALE MINING CONTRACT MAY BE SUBCONTRACTED BY ANOTHER SMALL-SCALE MINER, SUBJECT TO THE APPROVAL OF THE BOARD, BUT IN NO CASE SHALL BE ASSIGNED OR OTHERWISE TRANSFERRED TO ANOTHER PARTY."

"SEC. 13. *Terms and Conditions of the Contract.*- A contract shall have a term of FIVE (5) years renewable, subject to verification by the Board, for like periods as long as the contractor complies with the provisions set forth in this Act and confers upon the contractor the right to mine within the contract area: *Provided*, That the holder of a small scale mining contract shall have the following duties and obligation:

- (a) Undertake mining activities only in accordance with a mining plan duly approved by the Board;
- (b) Abide by the Mines and Geosciences Bureau and the Small-scale Mining Safety Rules and Regulations;
- (c) Comply with his obligations to the holder of an existing mining right;
- (d) Pay all taxes, royalties or government production share as are now or may hereafter be provided by law;
- (e) Comply with pertinent rules and regulations on environmental protection and conservation, particularly those on tree-cutting, mineral processing, and pollution control;
- (f) File under oath at the end of each month a detailed production and financial report to the Board; and
- (g) Assume responsibility for the safety of persons working in the mines."

"SEC. 14. *Rights of Claimowners.*- In case a site declared and set aside as a people's small-scale mining area is covered by an existing mining right, the claimowner and the small-scale miners therein are encouraged to enter into a voluntary and acceptable contractual agreement with respect to the small-scale utilization of the mineral values from the area under claim. In case of disagreement, the claimowner shall entitled to the following rights and privileges:

(a) Exemption from the performance of annual work obligations and payment of occupation fees, rental, and real property taxes;

(b) Subject to the approval of the Board, free access to the contract area to conduct metallurgical tests, explorations and other activities, provided such activities do not unduly interfere with the operations of the small-scale miners; and

c) Royalty equivalent to one and one half percent (1 1/2 %) of the gross value of the metallic mineral output or one percent (1 1/2%) of the gross value of the nonmetallic mineral output to be paid to the claimowner. TO PROMOTE BETTER UNDERSTANDING, THE SMALL MINERS AND THE CLAIMOWNER ARE ENCOURAGED TO DEVISE A SIMPLIFIED WAY OF COMPUTING AND COLLECTING ROYALTY FEES; *Provided*, That such rights and privileges shall be available only if he is not delinquent in the performance of his annual work obligations and other requirements for the last two (2) years prior to the effectivity of this Act."

"SEC. 16. *Ownership AND TRANSPORT OF ORE BEARING MATERIALS/ROCKS/MILL TAILINGS.*- The small-scale mining contractor shall be owner of all ORE BEARING ROCKS/MATERIALS/MILL TAILINGS EXTRACTED FROM HIS/ITS CONTRACT AREA. THE BOARD HAS THE SOLE JURISDICTION OVER THE TRANSPORT OF ORE BEARING ROCKS/MATERIALS/MILL TAILINGS FROM A CONTRACT AREA TO CUSTOM MILLS. THE BOARD SHALL ALSO PROMULGATE A SEPARATE POLICY ON TRANSPORTING OR ORE BEARING ROCKS/MATERIALS TO CUSTOM MILLS BY SMALL-SCALE MINERS PRODUCED OR EXTRACTED FROM GOLD RUSH/SMALL-SCALE MINING AREAS THAT ARE ALREADY EXISTING BEFORE AUGUST 1, 1987, BUT CAN NOT YET BE DECLARED AS PEOPLE'S SMALL-SCALE MINING AREA IN ACCORDANCE WITH THIS ACT FOR ONE REASON OR ANOTHER."

"SEC. 18. *Custom Mills.*- The establishment and operation of safe and efficient custom mills to process minerals or ore-bearing materials shall be limited to mineral processing zones duly designated by the local government unit concerned upon recommendation of the Board.

In mining areas where the private sector is unable to establish custom mills, the Government shall construct such custom mills upon the recommendation of the Board based on the viability of the project.

The Board shall issue licenses for the operation of custom mills and other processing plants subject to pollution control and safety standards.

The Department shall establish assay laboratories to crosscheck the integrity of custom mills and to render metallurgical and laboratory services to miners.

AS MUCH AS PRACTICABLE, custom mills shall be constituted as withholding agents for the royalties, production share or other taxes due the Government."

"SEC. 19. *Government Share and Allotment.*- The revenue to be derived by the Government from the operation of the mining program herein established shall be subject to the sharing provided in the Local Government Code. **IN AREAS WHERE IT IS NOT PRACTICAL TO HAVE THE CUSTOM MILLS CONSTITUTED AS WITHHOLDING AGENTS FOR GOVERNMENT SHARE AND ALLOTMENT, THE BOARD SHALL WORK IT OUT WITH THE LOCAL OFFICE OF THE BUREAU OF INTERNAL REVENUE, THE LOCAL GOVERNMENT UNITS, AND LOCAL MINERS ASSOCIATION CONCERNED TO FORMULATE A WORKABLE SYSTEM OF COLLECTING GOVERNMENT SHARES OR ALLOTMENT FROM THE PRODUCE OF THE SMALL-SCALE MINERS. THE BOARD MAY DEVISE A SIMPLIFIED SYSTEM OF COMPUTING AND COLLECTING GOVERNMENT SHARE AND ALLOTMENT TO PROMOTE EFFICIENT COLLECTION.**"

"SEC. 20. *LOCAL MINING DEVELOPMENT FUND.* There is hereby created a **LOCAL MINING DEVELOPMENT** Fund which shall be **TWENTY PERCENT (20%)** of the national government's share of the internal revenue tax of production share due the Government which shall be used primarily for information dissemination and training of small-scale miners on safety, health and environmental protection, and the establishment of mine rescue and recovery teams including the procurement of rescue equipment necessary in cases of emergencies such as landslides, tunnel collapse or the like."

"The Fund, **WHICH SHALL BE MANAGED BY THE BOARD**, shall also be made available to address the needs of the small-scale miners brought about by accidents and/or fortuitous events, **INCLUDING RELOCATION OF SMALL MINERS' SHELTERS TO SAFE AREAS. THE OPERATING FUNDS OF THE BOARD, INCLUDING THE PAYMENT OF PER DIEMS**

OF BOARD MEMBERS, SHALL ALSO BE CHARGED AGAINST THE SAID LOCAL MINING DEVELOPMENT FUND."

"SEC. 22. *Reversion of People's Small-scale Mining Areas.*- The BOARD, upon recommendation of the DIRECTOR, shall withdraw the status of the people's small-scale mining area when it can no longer be feasibly operated on a small-scale mining basis or when the safety, health and environmental conditions warrant that the same shall revert to the State for proper disposition. IN CASE A PEOPLE'S SMALL-SCALE MINING AREA SHALL BE REVERTED FOR REASON THAT IT CAN NO LONGER BE TECHNICALLY AND VIABLY OPERATED ON AN ARTISANAL MINING BASIS, THE SMALL-SCALE MINING CONTRACTOR CONCERNED MAY APPLY FOR THE CONVERSION OF ITS CONTRACT INTO REGULAR SMALL-SCALE MINING BASIS. WHEN A PEOPLE'S SMALL-SCALE MINING AREA SHALL BE REVERTED FOR REASON THAT IT CAN NO LONGER BE FEASIBLY OPERATED ON A SMALL-SCALE MINING BASIS, THE SMALL-SCALE MINING CONTRACTOR OR CONTRACTORS FORMING THEMSELVES INTO A SINGLE CORPORATION OR COOPERATIVE, SHALL HAVE THE PRIORITY TO APPLY FOR MPSA UNDER LARGE-SCALE MINING SCHEME OVER THE SAME SMALL-SCALE MINING AREA."

"SEC. 23. *Actual Occupation by Small-scale Miners.*- Small-scale miners who have been in actual operation of mineral lands on or before August 1, 1987, as determined by the Board, shall not be dispossessed, ejected or removed from said areas AND SHALL CONTINUE WITH THEIR LIVELIHOOD ACTIVITIES IN THE SAME AREA: *Provided*, That they comply with the provisions of this Act AFTER THE SAID AREA HAVE BEEN DECLARED AS PEOPLE'S SMALL-SCALE MINING AREA. PENDING DECLARATION AS PEOPLE'S SMALL-SCALE MINING AREAS IN ACCORDANCE WITH THIS ACT, ALL SMALL-SCALE MINING AREAS EXISTING AS OF AUGUST 1, 1987 AS DETERMINED BY THE BOARD, ARE HEREBY PLACED UNDER THE JURISDICTION OF THE BOARD CONCERNED FOR PURPOSES OF SUPERVISION AND CONTROL MOST PARTICULARLY ON MATTERS INVOLVING PUBLIC SAFETY, PEACE AND ORDER, ORE TRANSPORT, POLLUTION AND DISASTER CONTROL."

"SEC. 24. *Provincial/City Mining Regulatory Board.*- There is hereby created under the direct supervision and control of the Secretary a provincial/city mining regulatory board, herein called the

Board, which shall be the implementing agency of the Department, and shall exercise the following powers and functions, subject to review by the Secretary:

(a) Declare and segregate existing gold-rush areas for small-scale mining;

(b) Reserve future gold and other mining areas for small-scale mining;

(c) Award contracts to small-scale miners;

(d) Formulate and implement rules and regulations related to small-scale mining;

e) RECOMMEND TO THE SECRETARY THE SEGREGATION AND DECLARATION OF CERTAIN TIMBER LAND TO BE MADE A SPECIFIC AREA WHERE SMALL-SCALE MINERS SHALL SOURCE THEIR MINE TIMBERING NEEDS IN ACCORDANCE WITH EXISTING FORESTRY LAWS; UPON SEGREGATION AND DECLARATION OF THE MINING TIMBER SOURCES, THE BOARD SHALL FORMULATE A POLICY PROVIDING THAT SMALL-SCALE MINERS SHALL PLANT TWICE THE NUMBER OF TREES THEY HAVE CUT FOR MINE TIMBERING PURPOSES.

f) FORMULATE AN ENVIRONMENTAL COMPLIANCE CERTIFICATE REQUIREMENT POLICY THAT IS BEST APPLICABLE TO THE WORKINGS OF THE SMALL-SCALE MINERS IN EACH PARTICULAR SMALL-SCALE MINING AREA. THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO THE BOARD IN THE PREPARATION OF THIS PARTICULAR POLICY.

g) FORMULATE A POLICY THAT PROVIDES THE SMALL-SCALE MINES UNHAMPERED AND UNRESTRICTED ACCESS TO AND FROM EXISTING SMALL-SCALE MINING AREAS.

h) SETTLE DISPUTES, CONFLICTS OR LITIGATION OVER CONFLICTING CLAIMS WITHIN SMALL-SCALE MINING AREAS.

i) TO DEPUTIZE THE LOCAL COMMAND OF THE PHILIPPINE NATIONAL POLICE OR PHILIPPINE ARMY, AS THE CASE MAY BE, TO FULLY ENFORCE ITS ORDERS OR DECISIONS; AND

j) PERFORM SUCH OTHER FUNCTIONS AS MAY BE NECESSARY TO ACHIEVE THE GOALS AND OBJECTIVES OF THIS ACT."

"SEC. 25. *Composition of the Provincial/City Mining Regulatory Board.*- The Board shall be composed of the GOVERNOR OR CITY MAYOR, AS THE CASE MAY BE, AS BOARD CHAIRMAN AND THE REPRESENTATIVE OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL

RESOURCES AS EXECUTIVE VICE CHAIRMAN; one (1) small-scale mining representative, one (1) big-scale mining representative and a representative from a non-government organization who may come from an environmental groups, as members."

"The representatives from the private sector shall be nominated by their respective organizations and appointed by the Department Secretary. THE PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICER OR COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICER, AS THE CASE MAY BE, OF THE LOCAL GOVERNMENT UNITS CONCERNED MAY SERVE AS THE BOARD'S ENFORCEMENT/IMPLEMENTING OFFICER OF ITS POLICIES, DECISIONS AND ORDERS ON A CONCURRENT CAPACITY."

"SEC. 26. *Administrative Supervision over the People's Small-scale Mining Program.*- The Secretary, THROUGH THE GOVERNOR OR CITY MAYOR, AS THE CASE MAY BE, shall exercise direct supervision and control over the program and activities of the small-scale miners within the people's small-scale mining area."

SEC. 3. *Repealing Clause.*- All laws, decrees, letters of instruction, executive orders, rules and regulations, and other issuances, or parts thereof, in conflict or inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 4. *Separability Clause.*- Any section or provision of this Act which may be declared unconstitutional shall not affect the other sections or provisions hereof.

SEC. 5. *Effectivity.*- This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,