

HOUSE OF REPRESENTATIVES

House Bill No. **1635**

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

EXPLANATORY NOTE

This bill seeks to protect the rights of indigenous peoples affected by any mining operation in ancestral domains, amending for the purpose Republic Act (RA) No. 7942, otherwise known as the "*Philippine Mining Act of 1995*," which was enacted to promote the rational exploration, development, utilization and conservation of all mineral resources in public and private lands within the country including ancestral lands.

After the approval of RA 7942, Republic Act No. 8371, otherwise known as the "*Indigenous Peoples Rights Act*," was enacted to protect the rights of Indigenous Cultural Communities (ICCS) and Indigenous Peoples (IPs) to their ancestral domains and ensure their economic, social and cultural well being, among others. Section 46 of the said Act provides, in part, that "*The Ancestral Domains Office ... shall issue, upon the free and prior informed consent of the ICCs/IPs concerned, certification prior to the grant of any license, lease or permit for the exploration of natural resources affecting the interests of ICCs/IPs or their ancestral domains.*"

Thus, the Certification Precondition must be secured from the National Commission on Indigenous Peoples (NCIP) before all departments and governmental agencies shall issue, renew or grant any concession, license or lease to any project proponent or enter into any product-sharing agreement with any party who plans to utilize natural resources within the ancestral domains. Therefore, without the free and prior informed consent of the concerned Indigenous Peoples community and appropriate Certification Precondition from the NCIP, no permit should be issued by the DENR and other concerned agencies.

The said provision of the Indigenous Peoples Rights Act, however, has created confusion among the stakeholders in the mining sector because the Philippine Mining Act of 1995 and its implementing guidelines do not explicitly provide for such requirement.

Further, Section 17 of Republic Act No. 7942 provides that royalty payment shall be agreed upon by the parties which shall form part of a trust fund for the socioeconomic well-being of the ICCs or IPs without indicating the exact amount to be paid by the contractor, permit holder or mining operator. This particular provision has likewise led to disagreements concerning the royalty payment.

It is therefore necessary to make the appropriate amendments to the Mining Act of 1995 to protect the rights of the indigenous peoples and ease the confusion regarding said provisions.

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



MAXIMO B. RODRIGUEZ, JR.



RUFUS B. RODRIGUEZ

FIFTEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
FIRST REGULAR SESSION)

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AN ACT

PROTECTING THE RIGHTS OF INDIGENOUS PEOPLES AFFECTED BY
MINING OPERATIONS IN ANCESTRAL DOMAINS, AMENDING FOR THE
PURPOSE REPUBLIC ACT NO. 7942, OTHERWISE KNOWN AS THE
"PHILIPPINE MINING ACT OF 1995"

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

SECTION 1. Section 16 of Republic Act No. 7942, otherwise known as the
"Philippine Mining Act of 1995," is hereby amended to read as follows:

"SEC. 16. *Opening of Ancestral Lands for Mining
Operations.* – No ancestral land shall be opened for mining
operations without the FREE AND prior INFORMED consent of
the indigenous cultural community [concerned] AND A
CERTIFICATION PRECONDITION ISSUED FOR THE
PURPOSE BY THE NATIONAL COMMISSION ON
INDIGENOUS PEOPLES, AS SPECIFIED UNDER SECTION
59 OF REPUBLIC ACT NO. 8371."

SEC. 2. Section 17 of the same Act is also hereby amended to read as
follows:

"SEC. 17. *Royalty Payments for Indigenous Cultural
Communities.* – In the event of an agreement with an indigenous
cultural community pursuant to the preceding section, [the] A
royalty payment upon utilization of the minerals shall be [agreed
upon by the parties] GIVEN TO THE INDIGENOUS CULTURAL
COMMUNITY BY THE CONTRACTOR, PERMIT HOLDER, OR
MINING OPERATOR. The said royalty SHALL BE FIVE
PERCENT (5%) OF THE GROSS OUTPUT AND shall form part
of a trust fund for the socioeconomic well-being of the
indigenous cultural community."

SEC. 3. This Act shall take effect fifteen (15) days following its publication in
at least two (2) national newspapers of general circulation.

Approved,