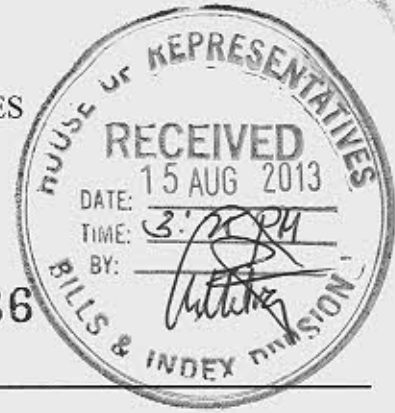


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2486



INTRODUCED BY HON. MARCELINO "MARCY" R. TEODORO

EXPLANATORY NOTE

The country's natural resources form a great part of the nation's wealth. Consequently, all activities which have the propensity to impair the quality of our natural resources should be subjected to scrutiny before being allowed to continue.

One of the industries which have massive societal and environmental impacts is the mining industry. It is essentially an extractive industry which results in the depletion of nonrenewable resources.

However, despite the naturally polluting tendency of the mining industry, the Philippine government's legislation and policies are largely pro-mining beginning with the passage of the Philippine Mining Act or Republic Act No. 7942 in 1995. It sought to liberalize the mining industry to foreign investment in order to meet the demands of globalization. The law was eventually declared unconstitutional by the Supreme Court in the leading case of *La Bugal B'laan Tribal Association v. Ramos*, a decision that was overturned less than a year later. The history of that case mirrors the proclivity of the government to act against its better judgment once the so-called profits of mining are brought into the picture. Indeed, the law has continued to serve as a platform for every administration's determined pursuit of mining as its most lucrative attraction for foreign investors, especially the previous administration. In executive issuances E.O. 270 and 270-A, the previous administration outlined a national policy agenda for the revitalization of the mining industry as a pillar of growth. It declared that the vast mineral resources of our country should be utilized for economic development and poverty alleviation, especially in the rural areas. It further fast-tracked the procedures for processing mining applications and diluted the authority of the local governments over mining issues.

Considering the history of serious mining accidents and the mining corporations' poor record in complying with our inadequate mining laws, the government's deference to the mining industry should be better examined. The baseless messianic view that the mining industry will attract foreign investment and save the country's faltering economy should be pitted against the numerous controversies over the massive social, economic and environmental impacts of the mining industry. In particular, the easy access of mining companies into indigenous peoples' lands and ancestral domains and the controversy over mining in watersheds and other protected areas must be studied thoroughly.

Furthermore, the devastating effects of mining on the health of the environment and communities on the long-term and at a large scale are both well-documented and unprecedented. Mining is an intrinsically dirty, wasteful and destructive industry – it threatens 40% of the world's undeveloped forests, causes the emission of 142 million tons of acid-rain-causing sulphur dioxide each year, and consumes from seven to ten percent (7-10%) of the world's energy. The creation of one gold ring generates three (3) tons of

waste, mostly left behind in indigenous people's domains where half of the world's gold is mined.

In the Philippines, the Marcopper disaster in Marinduque is one of the most notorious examples dramatizing the Philippines' own struggle with the hazards of mining. More than three million tons of toxic sludge were released into the Boac River in 1996 when a drainage tunnel burst, rendering the river biologically dead. This after two decades of environmental havoc has already been brought about by Placer Dome, the Canadian mining firm responsible for the Marcopper mines, which caused the dumping, via surface disposal, of more than 200 million tons of mine tailings directly into the shallow waters of Calancan Bay, covering corals and sea grasses and the bottom of the bay with 80 square kilometers of tailings.

Yet, despite these statistics and experiences, our policy-makers have championed mining as the virtual savior of our economy and made it a "pet project" of sorts, laboring under the illusion that it can still bring high revenues for the government. The reality, however, is that the mining industry is currently one of the weakest sectors in the global market. The big transnational mining companies have cut their workforces by the thousands and mining projects have been shelved with the global financial crisis which Karsten Fuelster, a mining division business development official for the International Finance Corp. have said is leading to "substantial short-term demand destruction." He adds that prices for metals apart from gold are expected to fall and projects will get delayed and exploration curtailed, while "funding difficulties will get worse" before they get better and that fund-raising will become "nearly impossible for non-producing companies" and that "many will not survive."

Even historically speaking, mining has never been shown to drive national economic development and is not expected to do so now, especially vis-a-vis the social, cultural, environmental, health, and even the economic costs it entails. In the Philippines, mineral-rich provinces continue to have higher poverty incidences despite the operations of mining companies. Instead, mining has exacerbated conflicts, resulted in the displacement of indigenous peoples and other rural communities, heightened the numbers of extra-judicial killings and human rights violations, and caused and exacerbated the pollution and depletion of natural resources which for generations have sustained livelihoods and defined the people's way of life. To pour resources into an industry which contributes only 1.2% of the country's GDP, instead of, say, into the agricultural sector which accounts for 35.7% of the country's labor force and economically contributes more to the country's GDP at 18%¹ simply defies good common sense.

The promotion of mining, therefore, in this time of crisis will translate not only to bad investment but also to the waste of what little resources we have remaining, these resources referring to both money in the bank and to those that are most essential such as water and food. There is an obvious and urgent need to shift our present framework on mining. We need to rethink our current priorities and recognize that it is not only impossible but also unwise to separate mining from the discussion of resource use, water, food security, environment, human rights, indigenous peoples and economics.

If there is truly a need for mining and if we are to engage in the mining industry as a nation, then there are certain safeguards that we need to establish to be able to meet the needs of our people now and in the future. There must be a shift of land use priorities towards sustainable development and food security. The benefits of mining for the Filipino people should clearly be established before even considering exposing our land and our people to the risks and hazards that are entailed.

Against this backdrop, the exploration of our mineral wealth must be understood within the context of environmental protection and sustainable development. The policies

1 Based on figures for the year 2008

of the State should be aimed at preventing disasters rather than mere remedial in nature. Since the effects of the mining industry are irreversible and the remedies or rehabilitation of the environment after disasters have occurred would be merely an exercise in futility, it would be better to formulate policies that will abate the occurrence of such deleterious events.

In this regard, the policies, principles and provisions contained in the 1995 Mining Act sorely lack what is needed to effectively respond to the needs of the Filipino people and to survive the current economic and environmental crisis that we together face. This bill is therefore proposed to take the place of the current mining law and, among others:

- guarantee that the exploration, development and utilization of mineral resources are primarily for the benefit of the Filipino people;
- prioritize more viable and more sustainable livelihood choices for communities, giving utmost importance to food security and livable conditions for the people;
- ensure that the gains from the mining industry would be maximized while preventing or mitigating its adverse effects of the same;
- recognize that the issue of environment is local and prioritize local participation in decisions surrounding mining; and
- protect human rights of communities and individuals and impose harsh penalties for the violations thereof.

In view of the foregoing, passage of this bill is earnestly sought.



MARCELINO "MARCY" R. TEODORO
Representative,
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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2486

INTRODUCED BY HON. MARCELINO "MARCY" R. TEODORO

AN ACT
TO REGULATE THE RATIONAL EXPLORATION, DEVELOPMENT AND
UTILIZATION OF MINERAL RESOURCES, AND TO ENSURE THE
EQUITABLE SHARING OF BENEFITS FOR THE STATE, INDIGENOUS
PEOPLES AND LOCAL COMMUNITIES, AND FOR OTHER PURPOSES

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

CHAPTER I. DECLARATION OF POLICIES

SECTION 1. *Short Title.* – This Act shall be known as the "Philippine Mineral Resources Act of 2013."

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to:

- a) Maintain peace and order, protect life, liberty and property and promote the general welfare;
- b) Protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature;
- c) Value the dignity of every human person and guarantee full respect for human rights;
- d) Promote social justice in all phases of national development;
- e) Recognize and promote the rights of indigenous cultural communities within the framework of national unity and development;
- f) Protect and promote the right to health of the people and instill health consciousness among them;
- g) Pursue an independent foreign policy. In its relations with other states, the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination;
- h) Develop a self-reliant and independent national economy effectively controlled by Filipinos;
- i) Ensure the autonomy of local governments;

- j) Give highest priority to the enactment of measures that protect and enhance the right of all people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good;
- k) Encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation;
- l) Adopt and accept the generally accepted principles as embodied in the International Covenant on Civil and Political Rights, International Covenant on Economic, Social, Cultural Rights, UN Declaration on the Rights of Indigenous Peoples, UN Convention on Biodiversity and other applicable international instruments.

SEC. 3. To this end, the State shall also endeavor to achieve an ecologically sound, economically viable, gender fair, equitable system of land and resource management that upholds the human rights of indigenous peoples and local communities towards sustainable development.

SEC. 4. The exploration, development and utilization of natural resources must comply with the principles of intergenerational responsibility.

SEC. 5. The judicious stewardship of our mineral resources requires that:

- a) The State and its members shall share in the burden of satisfying the need for mineral resources primarily through reusing and recycling existing mineral products;
- b) In land and water use, the production of sufficient food free from pollution towards food security shall always be the priority;
- c) The State and its members shall develop its human resources and encourage the evolution of its own appropriate technologies;
- d) The community shall actively participate in the stewardship of mineral resources. Community-based initiatives shall be encouraged and supported;
- e) Mining operations shall not in any way create or exacerbate conflicts; and
- f) The integrity of the environment is not compromised.

CHAPTER II. SCOPE AND GENERAL PRINCIPLES

SEC. 6. *Scope.* – This Act shall govern the ownership, management and governance of ore minerals onshore, as well as quarry resources, sand and gravel, guano, and gemstones, and the conservation, exploration, development, utilization, processing and transportation thereof. The ownership, management and governance of petroleum and coal shall be governed by special laws. Offshore mining shall also be governed by special laws.

SEC. 7. Ore minerals form part of the country's irreplaceable and non-renewable natural wealth and capital. The conservation of our mineral wealth is a paramount public interest and mineral resources shall be utilized only in a rational manner. The economic benefits derived from mining shall be equitably distributed by, among others, prioritizing development for local communities and all other stakeholders directly affected by mining operations.

SEC. 8. The management of mineral resources shall be a shared concern and responsibility among the national government, corporations, all levels of local government, and the communities affected by the exploration, development, and utilization of mineral resources.

SEC. 9. The extraction of mineral resources shall only be allowed if the ecological and social benefits and costs of mining far outweigh ecological and social benefits and costs from other land uses. The anticipated cost of environmental and social impacts on the affected local communities shall at all times be prevented and/or mitigated through the allocation of sufficient funds for this purpose.

SEC. 10. The State shall accord support to communities dependent on small-scale mining whose operations shall strictly adhere to the provisions of this law.

SEC. 11. Subject to their right to self-determination, indigenous cultural communities/indigenous peoples (ICCs/IPs) own and have the responsibility to manage the mineral resources in their respective ancestral domains, free from external manipulation, interference, force, threat, intimidation, coercion and other analogous acts. The State shall support indigenous cultural communities in developing capacities to effectively exercise their right and responsibility.

SEC. 12. Mining shall be limited in scale in accordance with this Act.

SEC. 13. Mineral resources development, utilization and processing shall be reserved for Filipino citizens and for Filipino corporations. Exploration shall be undertaken directly by the State for the benefit of the nation.

SEC. 14. Remaining and recycling of mineral resources shall be prioritized over the opening of new mines to maximize and recover the remaining mineral resources from rejects or wastes of previous mines and mining operations.

SEC. 15. The State shall prioritize the rehabilitation of the abandoned mines in the country.

SEC. 16. The State shall prioritize the development of mineral resources needed for national development and the creation of domestic processing capacity for industrial metals and other labor-intensive downstream industries. Mine planning shall be conducted to meet this principle. In this regard, the State shall formulate a Minerals Utilization Framework that will support national development based on the principles of sustainable development. This framework will define the minerals to be extracted, volume to be extracted and when to be extracted. This shall be matched with the approved mining areas as identified by the Councils. These matched areas are eligible for mining operations.

CHAPTER III. DEFINITION OF TERMS

SEC. 17. *Definition of Terms.* – As used in and for the purposes of this Act, the following terms, whether used in singular or in plural form, shall mean:

- a) Abandonment – the act of the contractor leaving a mine without rehabilitation or completing such rehabilitation despite the legal obligation to do the same.
- b) Acid mine drainage – the dissolution, mobilization and transportation of toxic metals from rocks resulting from the chemical reaction of acid-generating minerals in rock and waste materials having high permeability to both air and

rainfall and other water inflows when land is opened up for mining and initiates the chemical reaction, resulting to a perpetual machine of acid generation.

- c) Ancestral domains – all areas generally belonging to indigenous cultural communities/indigenous peoples (ICCs/IPs) comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possess by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, *force majeure* or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators.
- d) Ancestral lands – lands occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, *force majeure* or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by the government and private individuals/corporations including, but not limited to, residential lots, rice terraces or paddles, private forests, swidden farms and tree lots.
- e) Beneficiation – process wherein a large fraction of the waste mineral is removed from the ore;
- f) Buffer Zones – identified areas outside the boundaries of and immediately adjacent to designated protected areas that need special development control in order to avoid or minimize harm to the protected area.
- g) Bureau – the Mines and Geosciences Bureau under the Department of Science and Technology.
- h) Carrying Capacity – the capacity of natural and human environments to accommodate and absorb change without experiencing conditions of instability and attendant degradation.
- i) Certificate of Ancestral Domains Title (CADT) – a title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with law.
- j) Certificate of Ancestral Lands Title (CALT) – a title formally recognizing the rights of ICCs/IPs over their ancestral lands.
- k) Closure of mines – permanent cessation of operations at a mine or a mine processing site after completion of the decommissioning process.
- l) Consensus – the decision communally reached after appropriate participatory consultation and discussion, free from any external manipulation, interference and coercion, and other analogous cases and obtained after fully disclosing the intent

and scope, including the positive and negative impacts, of the activity of such decision, in a language and process understandable to the community or group.

- m) Consent – the voluntary assent of the landowner or those who have been in open, continuous, exclusive and notorious possession of the land for more than ten (10) years in good faith, or thirty (30) years in bad faith, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable to the said landowner or occupant.
- n) Contract area – the area delineated as specifically provided by a mineral agreement for the development or utilization of mineral resources found therein.
- o) Critical watershed – a drainage area of a river system, lake or water reservoir supporting existing and proposed hydroelectric power, domestic water supply, geothermal power and irrigation works, which needs immediate rehabilitation and protection to minimize soil erosion, improve water yield and prevent possible flooding. The term shall also include areas which are traditional human settlements, land-uses, or sea-uses which are representative of a culture (or cultures), or human interaction with the environment especially when it has become vulnerable under the impact of irreversible change.
- p) Critical habitats – places or environments where species or subspecies naturally occur or has naturally established its population that are crucial to the survival of a species and essential for its conservation.
- q) Cultural sites – those that bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared or, directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance.
- r) Customary laws – body of written and/or unwritten rules, usages, customs and practices traditionally recognized, accepted and observed by respective ICCs/IPs and local communities.
- s) Decommissioning – the activity or process that begins after cessation of prospecting activities or mineral production (including metallurgical plant production). It involves, among others, the removal of unwanted infrastructure, making excavations and waste repositories safe and stable and surface rehabilitation with a view to negate or minimize and adverse environmental impacts remaining after cessation of mineral production. It includes after-care or maintenance that may be needed.
- t) Ecological profile or eco-profile – geographic-based instruments for planners and decision-makers which present an evaluation of the environmental quality and carrying capacity of an area and measures the specific interactions that will be affected by mining operations.
- u) Exploration – the searching or prospecting for mineral resources by non-invasive means for the purpose of determining the existence, extent, quantity and quality thereof, which may include but not limited to seismic, gravity, magnetic, electromagnetic, radar, induced polarization, radio-wave and electrogeochemical.
- v) Extraction – ore-removal activities that take place at the mine site itself.
- w) Free, prior and informed consent – the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and

practices, free from any external manipulation, interference, coercion, and other analogous acts and obtained after fully disclosing the intent and scope, including the positive and negative impacts of the activity in a language and process understandable and acceptable to the community.

- x) Indigenous peoples/Indigenous cultural communities (IPs/ICCs) – refer to a group of people or homogeneous societies identified by self-ascription and ascription by others, who have continuously lived as an organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains. They are peoples who have a spiritual relationship with the land.
- y) Indigenous political structure – refer to organizational and cultural leadership systems, institutions, relationships, patterns and processes for decision-making and participation, identified by ICCs/IPs such as, but not limited to, Council of Elders, Council of Timuays, Bodong Holders, and any other tribunal or body of similar nature.
- z) Joint Venture Agreement – an agreement wherein the government and a qualified person organize a joint-venture company, with both parties having equity shares, to develop and manage mineral resources. Aside from earnings on the equity, the Government shall be entitled to a share in the output computed at a certain percentage mutually agreed upon by and beneficial to both parties.
- aa) Key biodiversity areas – sites of global biodiversity conservation significance. They are defined by standardized criteria and thresholds to guide conservation interventions such as the establishment of protected areas.
- bb) Large-scale mining – mining in areas more than twenty (20) hectares, using mechanized tools and equipment, requiring considerable capital and having large-scale environmental, social, cultural and economic impacts with regard to resource use and/or consumption.
- cc) Mineral Agreement – a contract entered into by the government, in behalf of the State, and a private Filipino person, granting such person/s the privilege to mine a specific contract area.
- dd) Mineral resource- any concentration of minerals/rocks with potential economic value.
- ee) Mineral processing – the milling, beneficiation or upgrading of ores or minerals and rocks or by similar means to convert the same into marketable products.
- ff) Minerals – all naturally occurring inorganic substance in solid, gas, liquid, or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials, and geothermal energy.

- gg) Mine development – preparing the mine site for production by shaft sinking or pit excavation building of access roads, and constructing of surface facilities.
- hh) Mine wastes and tailings – rock materials from surface or underground mining and milling operations with no economic value to the generator of the same.
- ii) Mining activity – any or all of the following activities: exploration, extraction, utilization, processing, transportation and other activities conducted for the same.
- jj) Mining area – a portion of the contract area which has been identified by the contractor wherein actual mining operations are conducted.
- kk) Mining operations – either all or any of the mining activities involving exploration, feasibility, development, utilization, and processing.
- ll) National Park – an area of public domain, essentially natural wilderness, scenic or historic in character which has been withdrawn from settlement, occupancy, or any form of exploitation except in conformity with an approved management plan and set aside exclusively to conserve the area or preserve the scenery, the natural and historic objects, wild animals, and plants therein mainly for the purpose of biodiversity conservation and/or human enjoyment.
- mm) Native title – pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest.
- nn) Natural forest – forests composed of indigenous trees, not planted by man, whose structure, functions, and dynamics have been largely the result of natural succession processes.
- oo) Natural Parks – is a relatively large area not materially altered by human activity where extractive resources uses are not allowed and maintained to protect outstanding natural and scenic areas of national or international significance for scientific, educational and recreational use.
- pp) Open-pit mining – Extracting metal ores and minerals that lie near the surface by removing the overlying material and breaking and loading the ore. Also known as open-cast mining; open-cut mining.
- qq) Ore – a material that contains minerals in such quantities that it can be mined and worked commercially to extract the mineral. The mineral is usually contained in chemical combination with some other element in addition to various impurities.
- rr) Pollution control and infrastructure devices – infrastructure, machinery, equipment and/or improvements used for impounding, treating, or neutralizing, precipitating, filtering, conveying and cleansing mine industrial waste and tailings as well as eliminating or reducing hazardous effects of solid particles, chemicals, liquids or other harmful byproducts and gases emitted from any facility utilized in mining operations for their disposal.
- ss) Private land – any land belonging to any private person which includes alienable and disposable land being claimed by a holder, claimant, or occupant who has already acquired a vested right thereto under the law, although the corresponding certificate or evidence of title or patent has not been actually issued.

- tt) Processing – includes all treatment an ore receives after its extraction and beneficiation, which involves changes in the chemical nature of the mine minerals.
- uu) Progressive rehabilitation – rehabilitation which involves the staged treatment of disturbed areas during exploration, construction/development and mining operations.
- vv) Protected Areas – identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.
- ww) Protected landscapes/seascapes – areas of national significance which are characterized by the harmonious interaction of man and land while providing opportunities for public enjoyment through recreation and tourism within the normal lifestyle and economic activity of these areas.
- xx) Quarry resources – any common rock or other mineral substances as the Director of Mines and Geosciences may declare to be quarry resources such as, but not limited to, andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone, marble, marl, red burning clay for potteries and bricks, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders, and volcanic grass, *Provided*, That such quarry resources do not contain metals or metallic constituents and/or other valuable minerals in economically workable quantities, *Provided further*, That non-metallic minerals such as kaolin, feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious and semi-precious stones, and other non-metallic minerals that may later be discovered and which the Director declares the same to be of economically workable quantities, shall not be classified under the category of quarry resources.
- yy) Quarrying – process of extracting, removing and disposing quarry resources found on or underneath the surface of private or public land.
- zz) Regional Director – the regional director of any mines regional office.
- aaa) Regional Office – any of the mines regional offices.
- bbb) Recycling – shall refer to the treating of used or waste materials through a process of making them suitable for beneficial use and for other purposes, and includes any process by which solid waste materials are transformed into new products in such manner that the original products may lose their identity, and which may be used as raw materials for the production of other goods or services: *Provided*, That the collection, segregation and re-use of previously used packaging material shall be deemed recycling under the Act.
- ccc) Rehabilitation – the process by which the land will be returned to a form and productivity in conformity with a prior land use plan including a stable ecological state that does not contribute substantially to environmental deterioration and is consistent with surrounding aesthetic values.
- ddd) Remediation – removal of pollution or contaminants from environmental media for the general protection.
- eee) Remining – maximizing and recovering the remaining minerals from the rejects or wastes of previous mines and mining operations.

- fff) Restoration – where the intent is to recreate an ecosystem as close as possible to the original which existed at the site, with most of the structure and productivity matching that of the original ecosystem, and most of the original biodiversity; in time, ecological processes and functions will match those of the original forest.
- ggg) Small-scale mining – mining activities that rely heavily on manual labor using simple implements and methods and do not use explosives or heavy mining equipment, primarily engaged in for sustainable living. Impacts from small-scale mining shall not be large-scale, otherwise, the mining activity shall be defined as large-scale mining.
- hhh) Small-scale mining permit – permit issued for small-scale mining.
- iii) Strategic minerals – minerals needed for national development.
- jjj) Tailings Disposal System or Tailings Placement – the method wherein the waste from mining operations are dumped, placed or disposed.
- kkk) Traditional small-scale mining – small-scale mining using traditional means and without the use of chemical or mechanized extraction and separation means, methods, implements, and/or equipment.
- lll) Watershed continuum – shall refer to an area consisting of the watershed and its divide including its connection from the headwaters to the reef or a land area drained by a stream or a fixed body of water and with tributaries having a common outlet for surface runoff. It is the system by which the mining-affected communities shall be determined following the drainage of a stream or fixed body of water with tributaries having a common outlet for surface runoff.
- mmm) Wildlife – undomesticated forms and varieties of flora and fauna.

CHAPTER IV. OWNERSHIP AND GOVERNANCE

SEC. 18. *Authority of the Bureau.* – The Mines and Geosciences Bureau shall be a scientific research institution under the Department of Science and Technology (DOST), primarily conducting and developing research of mineral resources and mining technologies and training of local communities, local government units and indigenous peoples. It shall also regulate the operations of persons involved in mining activities. It shall also work with the Multi-Sectoral Mineral Council in the monitoring of mining activities.

SEC. 19. *Regional Offices.* – The Bureau shall have as many regional offices in the country as may be established by the Secretary, upon the recommendation of the Director.

SEC. 20. *Bureau as repository of information.* – The Bureau shall be the central repository of information regarding mineral lands, resources, permits, studies and other information relevant to the operation of a mine, including the necessary requirements which a contractor is obliged to submit. All other governmental offices and other bodies created under this Act shall copy furnish the Bureau of other information related to mining.

SEC. 21. *Recording System.* – There shall be established a national and regional filing and recording system. A mineral resource database system shall be set up in the Bureau which shall include, among others, a mineral rights management system.

SEC. 22. *Publication.* – The Bureau shall publish at least annually a mineral gazette of nationwide circulation containing among others, a current list of mineral rights, their location in the map, mining rules and regulations, other official acts affecting mining, and other information relevant to mineral resources development. A system of publication fund shall be included in the regular budget of the Bureau.

SEC. 23. *Bureau to Conduct Exploration Activities.* – Exploration of mineral resources shall be exclusively and directly undertaken by the State through the Bureau. In no case shall this function be delegated or contracted out to private corporations or persons.

SEC. 24. *Non-invasive Exploration.* – Exploration activities shall only be non-invasive such as, but not limited to seismic, gravity, magnetic, electromagnetic, radar, induced polarization, radio-wave and electrogeochemical.

SEC. 25. *Consent.* – The Bureau shall not enter into any private lands for the purposes of exploration activities without the written consent of the landowner, possessor and/or occupant, or the FPIC of the ICC/IP and payment of just compensation for the use of property. Neither shall the Bureau enter into any part of the ancestral domains/lands of ICCs/IPs without their free and prior informed consent. Further, the Bureau shall not enter into any distributed land under the Comprehensive Agrarian Reform Program within the 10-year prohibited period of the said program.

SEC. 26. *Ownership of ICCs/IPs.* – Mineral resources within the ancestral domains/ancestral lands are the collective private property of the ICCs/IPs. The management of such mineral resources shall build on indigenous knowledge systems and practices.

SEC. 27. *Free, Prior and Informed Consent.* – No mining activity shall be conducted within the ancestral domains/lands of ICCs/IPs without their free, prior and informed consent (FPIC), in addition to the conditions set for under the succeeding sections.

SEC. 28. *When an Ancestral Domain is not Formally Recognized.* – When an ancestral domain is not covered by a Certificate of Ancestral Domain Title/Certificate of Ancestral Land Title (CADT/CALT), or is covered by a different title issued in favor of members of the ICCs/IPs, the mineral resources shall nevertheless be managed by the ICCs/IPs concerned when it can be presumed that the area is part of ancestral domain. An area is presumed to be part of an ancestral domain by virtue of historic rights and self-delineation.

SEC. 29. *When ICCs/IPs displaced from ancestral domain, and when ancestral domain is already covered by other titles emanating from the State other than CADT/CALT.* – Native title over ancestral domain subsists notwithstanding the fact that the ICCs/IPs who hold such native title have been displaced therefrom or that such ancestral domains have been occupied by other persons or corporations under another claim of title emanating from the State. In such cases, ICCs/IPs shall continue to own such mineral resources.

SEC. 30. *Questions on the validity of FPIC.* – In instances that there are questions on the legality or validity of the issued free prior and informed consent, mining operations shall not be allowed to be conducted in the ancestral domains or lands of the ICCs/IPs without the final resolution of such question on the legality or validity of the FPIC.

SEC. 31. *Ownership of the State.* – The mineral resources found outside ancestral domains/lands shall be owned by the State. The State shall ensure that the management of mineral resources shall be primarily for the benefit of the local communities in whose territory the same shall be found. Any minerals extracted shall be solely used for local industries consistent with the Minerals Utilization Framework. The State may directly

undertake development, utilization and processing of mineral resources or it may enter into mineral agreements with eligible parties pursuant to the provisions of this Act.

SEC. 32. *Inventory of Mineral Resources.* – The Bureau shall identify and provide an inventory of the available mineral resources, including the mine tailings within the country. It shall submit to the DOST a report which shall contain the following information:

- a) the classification of minerals;
- b) the quality and grade of the ore;
- c) the potential mine life;
- d) the geological description of the area;
- e) the economic viability of mine tailings;
- f) whether the area is a key biodiversity area or if it is a critical habitat; and
- g) all other relevant information necessary for potential mineral investments.

The process for exploration and/or approval for a mining permit shall not commence without the said inventory.

SEC. 33. *Identification of Strategic Minerals.* – The Bureau shall conduct researches and studies prior to any mining operations to identify strategic mineral resources. Only mineral resources that shall be needed for local industries shall be mined.

SEC. 34. *Demarcation of Mineral Areas.* – The Bureau shall demarcate the boundaries of all areas identified as containing commercial quantities of mineral resources on the ground.

SEC. 35. *Baseline information on watershed continuums.* – The baseline information on all watersheds in the country shall be required and made available to the public, online as much as possible. No mining permit shall be issued without this baseline information.

SEC. 36. *Affected local community and local government unit.* – For the purposes of this Act, the affected local community and the affected local government unit are defined in relation to the watershed continuum which is potentially negatively impacted by mining operations in the demarcated area. The local communities and the local government units therefore are those who are dependent on the watershed eco-system and its resources.

SEC. 37. *Establishment of Multi-Sectoral Mineral Council.* – A Multi-Sectoral Mineral Council shall be established for the purposes of this Act. There shall be as many Multi-Sectoral Mineral Councils as there are watershed continuums with demarcated mineral areas.

SEC. 38. *Powers of the Council.* – The Council shall have the following powers, among others:

- a) To determine whether or not mining operations shall be allowed;
- b) To deliberate on proposals for mineral agreements;
- c) To approve the proposal for mineral agreements;
- d) To monitor the conduct of mining operations; and
- e) To establish its internal rules of procedure which are not contradictory to this Act.

SEC. 39. *Composition of the Multi-Sectoral Mineral Council.* – The Multi-Sectoral Mineral Council shall be composed of a representative of the Bureau, a representative from the DENR, one representative from each of the affected provincial governments/independent component cities/ highly urbanized cities, representatives from peoples' organizations as many as the representatives of local government units, the

affected ICCs/IPs within the watersheds continuum and representatives from the marginalized sectors that will be greatly affected by the proposed mining project. The Bureau shall be the convenor of the Council.

No mining operations shall be allowed without the Council having been properly convened.

SEC. 40. Areas Open to Mining. – The Council shall have the power to determine whether or not the land where mineral resources are found shall be opened to mining. Areas may only be opened to mining upon the unanimous vote of all the members of the Council pursuant to the guidelines provided by this Act. In determining whether or not such area shall be opened, the following shall be required:

- a) Report of the Bureau on the conducted exploration;
- b) Existence of downstream industries for the mineral resources;
- c) Potential environmental impacts;
- d) Potential cultural impacts;
- e) Conflict and risk assessment;
- f) Potential health impacts;
- g) Potential economic benefits of the development and utilization of the minerals;
- h) Carrying capacity and the ecological profile of the area;
- i) Existing and alternative land uses of the area;
- j) Local government land use plan.

No mining application shall be allowed unless an environmental economic audit or resource valuation of the proposed mining area have been conducted or prepared applying acceptable valuation standards. This audit or resource valuation shall be conducted in coordination with multisectoral group of experts and community stakeholders. It shall include determination of the expected economic returns and the potential negative impacts from mining on the enjoyment and exercise of human rights, cultural rights, and on peace and security. A detailed study must mention the flora, fauna and environment present in the mining claim and the impact of mining operations on the environment, the possible environmental degradation and the attendant loss of subsistence resources cause. There must be mention of existence of sacred areas or areas otherwise of cultural significance and address the impacts of resource exploitation on indigenous peoples.

This information shall be accessible to the public at all times.

Provided however, That in no case shall the Council open the following areas to mining:

- a) Head waters of watershed areas;
- b) Areas with potential for acid mine drainage;
- c) Critical watersheds;
- d) Critical habitats;
- e) Climate disaster-prone areas;
- f) Geohazard areas;
- g) Small island ecosystems;
- h) Cultural sites, which may include, but not limited to, sacred sites and burial grounds;
- i) Traditional swidden farms and hunting grounds;
- j) Lands covered by the Comprehensive Agrarian Reform Law or Republic Act No. 6657, as amended;
- k) Prime agricultural lands, irrigable and irrigated lands as defined by Republic Act No. 9700;
- l) Cultural property enumerated under the National Cultural Heritage Act of 2009 or Republic Act No. 10066;

- m) Key biodiversity areas;
- n) High conflict areas;
- o) The Province of Palawan pursuant to Republic Act No. 7611 and other areas covered by local ordinances;
- p) In military and other government reservations, except upon prior written clearance by the government agency concerned;
- q) Near or under public or private buildings, cemeteries, archeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works including plantations or valuable crops, except upon written consent of the government agency or private entity concerned;
- r) In areas expressly prohibited by law or ordinances;
- s) In areas covered by small-scale miners as defined by law unless with prior consent of the small-scale miners, in which case a royalty payment upon the utilization of minerals shall be agreed upon by the parties, said royalty forming a trust fund for the socioeconomic development of the community concerned; and
- t) Old growth, natural or primary forests, watershed forest reserves, wilderness area, mangrove forests, mossy forests, national parks, protection forests, provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries and their respective buffer zones as defined by law, in areas covered by the National Integrated Protected Area System (NIPAS) under Republic Act No. 7586 and those expressly prohibited by other laws.

The determination whether or not the same are absolutely closed to mining shall not only be limited to the existence of a law or ordinance declaring it as protected areas, but also to the actual use of the said area.

SEC. 41. *Manner of Voting by the Council for Opening an Area to Mining.* – Sections 26 and 27 of the Local Government Code on consultation and consent shall be strictly adhered to. Local government units at all levels shall conduct mandatory public hearings with the affected local communities, to be carried out within their respective territories and presenting those enumerated under Section 40.

After the inventory of the existing minerals, the formulation of a mine plan, and the existence of the baseline information of the particular watershed area, the Bureau shall convene the Council.

The Council shall thereafter respectively convene their constituents to determine whether or not their respective territories shall be opened for mining.

Local government units, ICCs/IPs, NGOs and peoples organizations shall ensure that the Bureau shall comprehensively explain the goals and objectives of the project or program, its negative and positive impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof. Thereafter, the approval of the respective *sanggunians* of the affected local government units shall be required in accordance to the sentiment of the people of the local government unit as a result of the consultations conducted.

Provided, That the affected local government unit representatives shall meet and shall relay the decision of their respective constituents to the provincial government/independent component cities/highly urbanized cities. The provincial/component city/highly urbanized city government representative shall sit in the Council and shall carry the result of the vote of all the affected local government units within the province resulting from the process provided in the preceding paragraph of this Section. There must be a unanimous vote among the local government units for the purpose of opening a particular area for mining. Failure to reach a unanimous vote for

opening shall mean that the area is closed to mining. The proceedings shall at all times be recorded.

Provided moreover, That in case there are affected indigenous cultural communities/indigenous peoples within the watershed continuum, they shall also bring the community's vote to the Council after undergoing their own processes in accordance with their respective indigenous political structure, free from any external manipulation, interference, coercion and other analogous acts, and obtained after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable and acceptable to them.

Provided finally, That any member of the community may file a protest with the Council during this period of consultations and deliberations for the Council's consideration.

SEC. 42. Violation of Section 51. – Local government officials who are administratively found to violate the preceding section and Section 51 of this Act vis-à-vis the pertinent sections of the Local Government Code shall be removed from office and perpetually disqualified from holding any elective or appointive position in government, its divisions, subsidiaries and any government owned and controlled corporations.

SEC. 43. Pool of Consultants. – There shall be a pool of independent consultants that may assist the local government units, local communities or ICCs/IPs with regard to the technical aspects of mining.

SEC. 44. Publication, Posting and Radio Announcement Requirements. – The decision of the Council shall be published by the Bureau in the local newspaper in the local language, shall be announced on the local radio programs for not less than six (6) weeks and notices shall be distributed widely in communities. The notice containing relevant information shall likewise be posted in conspicuous places for the information of the general public and shall be announced during the local market day.

CHAPTER V. MINERAL AGREEMENTS

SEC. 45. Modes of Mineral Agreement. – A mineral agreement may only take the following forms as herein defined:

- a) Mineral production sharing agreement – an agreement where the Government grants to the contractor the exclusive right to conduct mining operations within a contract area and shares in the gross output. The contractor shall provide the financing, technology, management and personnel necessary for the implementation of this agreement.
- b) Co-production agreement – an agreement between the Government and the contractor wherein the Government shall provide inputs to the mining operations other than the mineral resource.
- c) Joint venture agreement – an agreement where a joint-venture company is organized by the Government and the contractor with both parties having equity shares. Aside from earnings in equity, the Government shall be entitled to a share in the gross output.

In no case shall Financial or Technical Assistance Agreements, or any other similar agreements, contracts, and/or executive issuances granting license or permission to explore, develop and/or utilize mineral resources be awarded to foreign persons.

SEC. 46. *Eligibility.* – Only Filipino citizens or corporations sixty percent (60%) of whose equity is owned or controlled by such citizens shall be allowed to conduct development, utilization and processing of mineral resources within the country.

SEC. 47. *Identification of Mining Projects.* – With the unanimous vote of the Council to open areas for mining operations, the Bureau shall prepare the necessary information sheets on the said area for potential investments. The Bureau shall call for proposals to develop the mining area.

SEC. 48. *Pre-screening of Mining Proposals.* – Mining proposals shall be pre-screened by the Bureau upon the submission of interested parties of the following:

- a) demonstration of financial capability;
- b) proven social and environmental track record, including those of its officers and directors;
- c) clear corporate structure and ownership;
- d) proof of physical office and operations of the proponent within the Philippines;
- e) identification of potential investors;
- f) mining project feasibility;
- g) mining operation work plan;
- h) proposed operation, mitigation and prevention methods and/or equipment;
- i) capacity to process minerals;
- j) intent to develop downstream industries;
- k) intent to contribute to local community development; and
- l) submission of the Environmental and Social Impact Prevention and Mitigation Plan.

The Council shall fix the minimum capitalization that any bidder must satisfy based on its determination of the expected economic returns and the potential negative impacts from mining, upon reference to an independent study proposing such minimum capitalization.

SEC. 49. *Environmental and Social Impact Prevention and Mitigation Plan.* – The contractor shall submit an Environmental and Social Impact Prevention and Mitigation Plan (ESIPMP) containing the means, methods, processes and schedule by which the contractor shall conduct its operations and prevent or mitigate negative environmental and social impacts. Social impact shall include possible impacts on the enjoyment and exercise of human rights, cultural rights, and on peace and security. The ESIPMP shall also include not only plans relative to mining operations but also to rehabilitation, regeneration, restoration of mineral areas, slope stabilization of mined out and tailings covered areas, aquaculture, watershed development, water conservation, relocation and return of displaced population, provision of alternative livelihood and socioeconomic development.

The ESIPMP shall also contain a Social Development Management Plan which shall likewise contain the plans of the proponent for the development of the community through the establishment of infrastructures and programs that shall be sustainable even after the closure of the mine.

SEC. 50. *Pre-qualification.* – The Bureau shall thereafter identify the top three (3) proposals and shall recommend the same to the Council for deliberation.

SEC. 51. *Deliberation of the Proposals.* – After the Bureau's transmittal of its recommendations to the Council together with all the submitted documents for the pre-qualification, the Council shall initiate the deliberation process of the pre-qualified proposals.

Immediately thereafter, Sections 26 and 27 of the Local Government Code on consultation and consent shall be strictly adhered to. Local government units at all levels shall conduct mandatory public hearings with the affected local communities, to be carried out within their respective territories and presenting those enumerated under Section 48. Local government units, ICCs/IPs, NGOs and peoples organizations, shall ensure that the mining applicant shall comprehensively explain the goals and objectives of the project or program, its negative and positive impact upon the people and the community in terms of social, cultural and environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof. Thereafter, the approval of the respective *sanggunians* of the affected local government units shall be required in accordance to the sentiment of the peoples of the local government unit as a result of the consultations conducted.

Provided, That the affected local government unit representatives shall meet and shall relay the decision of their respective constituents to the provincial government/independent component cities/highly urbanized cities through the submission of the minutes of meeting declaring their decision with signatures from the constituent. The provincial/independent component city/highly urbanized city representative shall sit in the Council and shall carry the result of the vote of all the affected local government units within the province/independent component city/highly urbanized city resulting from the process provided in the preceding paragraph of this Section.

In determining which proposal is acceptable to the people, a majority vote of the local government units within the province/independent component city/highly urbanized city shall be required.

The affected ICCs/IPs shall also deliberate on the proposals in accordance with their own systems and processes free from any external manipulation, interference, coercion and other analogous acts, and obtained after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable and acceptable to them.

After the respective processes are complied with, the Council shall then meet and decide which proposal, if any, is most acceptable and consistent with their own socio-economic, environmental and cultural programs and shall notify the Bureau of the chosen proposal.

SEC. 52. Posting and Publication Requirement. – After notice, the Bureau shall notify the proponent of the accepted proposal and cause the publication and posting of the accepted proposal.

Provided, That any member of the community may contest the decision of the Council within six (6) weeks upon the posting and publication of notice of the acceptance of the proposal in the manner provided in Section 41. No mining operations shall be allowed to be conducted pending any action questioning the legality or validity of the proposal.

SEC. 53. Issuance of the Permit. – After six (6) weeks from the date of posting and publication, if no contest is filed, the Bureau shall issue a permit in accordance with the decision of the Council on the winning proposal.

SEC. 54. Environmental and Social Impact Compliance Certificate. – The mining proponent shall be issued an Environmental and Social Impact Compliance Certificate by the Bureau with the approval of the Council.

Provided, no amendments to the conditions of the Certificate shall be allowed, unless such proposed amendment shall work for the benefit of the communities, and in which case, the Council and the Bureau shall be notified of any amendments to the ESIPMP and that the former should give their consent to the same, after the proponent explaining in

detail the reason for such amendment and the possible impacts and consequences of these amendments.

Provided further, That any violation of the ESIPMP shall cause the cancellation of the Certificate.

SEC. 55. *Maximum Areas for Mineral Agreements.* – The maximum area under mineral agreements that a person can hold at any one time shall be determined by the Council, *Provided*, That the contract area per agreement shall not exceed five hundred (500) hectares, *Provided further*, That no person shall be awarded in excess of the total contract area of seven hundred-fifty (750) hectares in any given watershed area. For the purposes of this Act, the prohibition on the maximum area shall also include corporations that shall have common directors or significant shareholders.

SEC. 56. *Term of Mineral Agreement.* – The term of the mineral agreement shall be equivalent to the mine life plus an additional five (5) years for the rehabilitation of the mining area. *Provided*, That in no case shall a Mineral Agreement have a term beyond fifteen (15) years, *Provided further*, That the contractor shall already include rehabilitation/remediation of the mining area within the ten-year term.

In no case shall a Mineral Agreement be extended without just cause to be determined by the Council, *Provided*, That the extension shall not cause the term of the agreement to exceed the fifteen (15) year term mentioned in the preceding section. *Provided further*, That for the purposes of this Act, just cause shall mean acts or events resulting from war, *force majeure* or those beyond the control of the mining proponent not attributable to the same.

Provided finally, That in no case shall mineral agreements be renewed after the expiration of the fifteen-year period.

SEC. 57. *Prohibition on open-pit mining method.* – Open-pit mining method for the extraction of mineral ores shall be prohibited.

SEC. 58. *Failure to Initiate Mining Operations.* – Failure to initiate mining operations in accordance with the work program within two (2) years from the award of the mineral agreement shall cause the cancellation of the mineral agreement. The contractor thereafter forfeits the value of the improvements made upon the land. The contractor and other corporations who are also run by the same directors and officer are thereafter banned from bidding to conduct mining operations for ten (10) years after failure to initiate its mining operations in accordance with the work program.

SEC. 59. *Mandatory Consultations in Each Mining Phase.* – Mandatory consultations with affected communities shall be undertaken in each phase of the mining operation: exploration, extraction, processing, and mine closure to ensure that the people shall be informed of the proposed plans and methods that are proposed to be conducted.

SEC. 60. *FPIC of ICCs/IPs on Each Stage of Operation.* – The free and prior informed consent of the ICCs/IPs shall be required at each and every stage of the mining operations. Free and prior informed consent shall be secured in accordance with the laws, practices and processes of the concerned ICCs/IPs. The violation of any of the conditions imposed by the ICCs/IPs on the contractor shall cause the cancellation of the mineral agreement. Included in this process is the explanation of the rights of ICCs/IPs of ownership and self-determination.

SEC. 61. *Consent of Private Landowners.* – No person shall be allowed entry into private lands without the written consent of the landowners, possessors or lawful occupants of the land and/or the FPIC of the ICC/IP.

SEC. 62. *Expropriation.* – Expropriation proceedings shall be filed with the regular courts to determine whether the taking of private property for mining purposes shall meet a public purpose and to determine just compensation.

SEC. 63. *Multi-partite Monitoring.* – The Council shall form a multi-partite monitoring team to monitor compliance by the contractor of the terms and conditions of the mineral agreement. It may conduct ocular inspections of the contract area at any time of the day and night. It shall also inspect all the books of contractors and refer the same to independent auditors. The multi-partite monitoring team and/or the Bureau may confiscate surety, performance and guaranty bonds posted through an order to be promulgated by the Director. The Council, the Director or the local government authorities may deputize, when necessary, any member or unit of the Philippine National Police, barangay, duly registered nongovernment organization (NGO) or any qualified person to police all mining activities.

SEC. 64. *Withdrawal from the Mineral Agreement.* – The contractor may withdraw from the mineral agreement at any time for justifiable cause with one (1) month's notice to the Bureau, the Council and/or the ICCs/IPs, and other government agencies as may be provided by law. The Council, in cooperation with other concerned government agencies, shall issue a clearance for withdrawal upon certifying that the contractor has complied with all its legal obligations, including the appropriate measures for mine closure and rehabilitation. Funds and bonds which have been put up by the contractor in accordance with this Act shall be forfeited.

SEC. 65. *Non-transferability of Mineral Agreements.* – In no case shall mining rights under this Act be transferable. The contractor shall also notify the Council and the Bureau of any substantial change in the ownership and/or control of the corporation. Violation of this provision shall cause the cancellation of the agreement and forfeiture of assets and equipment of the contractor.

SEC. 66. *Access to Information.* – All contractors for mineral permits and agreements shall provide information to affected indigenous peoples, local communities, and local governments. The following information, among others, shall be required:

- a) full disclosure of methods and processes of mining;
- b) full disclosure of environmental and social risks;
- c) full disclosure of ownership structure; and
- d) full disclosure of financial sources.

All information and documents related to proposals, mineral agreements, permits and mining operations shall not be considered confidential.

Refusal to grant access to this information shall be cause for the disqualification of prospective proponents or cancellation of mineral agreements and permits.

The Bureau, being the repository of all relevant information under this Act is mandated to grant access to the public of any information in its custody. Refusal or unnecessary delay by the officers of the Bureau to give information shall be punishable by a fine of Fifty Thousand Pesos (P50,000.00) for every instance of refusal or unnecessary delay.

Information requested by indigents or marginalized sectors shall be given to them for free.

CHAPTER VI. SMALL-SCALE MINING

SEC. 67. *Applicability of R.A. 7076.* – Small-scale mining shall continue to be governed by the provisions of Republic Act No. 7076 or the People's Small-Scale Mining Act of

1991, *Provided*, That the Provincial/City Mining Regulatory Board shall be composed of the Governor or City Mayor, as chairperson, as the case may be, a representative from the DENR as co-chairperson, one (1) small-scale mining representative, one (1) big-scale mining representative, one (1) representative from a nongovernment organization who shall come from an environmental group, one (1) representative from a people's organization (PO) coming from the marginalized sector, and at least one (1) representative from the indigenous communities, whenever applicable, as members. The representatives from the private sector, nongovernment organization and indigenous communities shall be selected by their respective organizations and/or communities, and appointed by the PMRB or CMRB.

Provided further, That the conduct of small-scale mining shall also comply with the prohibitions and regulations established herein for large-scale mining. Only qualified individuals and cooperatives may apply for a small-scale mining permit.

SEC. 68. *Maximum term of small-scale mining permits.* – The term for small-scale mining permits shall be three (3) years, extendable to a maximum of fifteen (15) years.

SEC. 69. *Traditional small-scale mining within ancestral domains.* – The Council shall conduct regular monitoring activities within its jurisdiction to determine if the provisions of relevant laws are complied with in traditional small-scale mining by ICCs/IPs within their respective ancestral domains.

SEC. 70. *FPIC in small-scale mining.* – Small-scale mining within ancestral domains by any person shall also require the free, prior informed consent of ICCs/IPs.

SEC. 71. *Requirement for an Environmental Compliance Certificate.* – Small-scale mining shall likewise require an Environmental Compliance Certificate. All small-scale mining applicants or proponents must show proof of compliance with the terms and conditions of its Environmental Compliance Certificate (ECC) prior to the issuance of a small scale mining permit. Failure to submit this requirement will result in the non-issuance of the SSMP.

SEC. 72. *Environmental measures in small-scale mining.* – The State shall immediately address the environmental and health problems in small-scale mining, including the use of hazardous chemicals, such as mercury and cyanide, in the amalgamation of gold by small-scale miners.

SEC. 73. *Prohibition on the use of mercury.* – Mercury use in small-scale mining shall be prohibited. The Bureau shall research, develop and actively promote appropriate technologies in small-scale mining including labor-intensive methods, environmental protection and physical techniques of gold extraction among small-scale miners.

SEC. 74. *Multisectoral Monitoring Team.* – A multisectoral monitoring team shall be organized to monitor the SSMP permittee's compliance with the terms and conditions of its SSMP and ECC. The MMT shall conduct ocular inspections of the SSMP area at any time of the day and night and shall have visitorial powers.

SEC. 75. *Alternative livelihood support.* – The State shall support the improvement of the livelihood of small-scale miners by extending the services for access to other more viable and sustainable forms of livelihood, and, if the same is not possible, the following support services:

- a) access to minerals markets and to financing;
- b) facilitating partnership with mining companies or contractors by, among others, requiring mining companies to buy tailings from small-scale mining operations for further processing or recycling;

- c) facilitating partnership among small-scale mining cooperatives; and
- d) other incentives to attract informal small-scale miners to formalize their status.

SEC. 76. *Buying stations.* – The Bangko Sentral ng Pilipinas shall ensure that buying stations acquire gold from small-scale traders at prevailing international gold market price and prevailing exchange rate set by the BSP Treasury Department on a daily basis.

CHAPTER VII. QUARRY RESOURCES

SEC. 77. *Quarry resources within ancestral domains.* – Gathering of quarry resources, sand and gravel, guano and other organic fertilizer materials, and gemstones within ancestral domains shall likewise be subject to the FPIC of ICCs/IPs. ICCs/IPs and the government shall be entitled to at least ten per cent (10%) of royalties depending on whether the resources are found inside or outside ancestral domains. Permits shall be limited to a maximum term of five (5) years, renewable for like periods but not exceeding a total term of twenty five (25) years, and a maximum area of five (5) hectares.

SEC. 78. *Quarry Permit.* – Any qualified person may apply to the provincial/city mining regulatory board for a quarry permit on privately-owned lands except ancestral domains and/or public lands for building and construction materials such as marble, basalt, andesite, conglomerate, tuff, adobe, granite, gabbro, serpentine, inset filling materials, clay for ceramic tiles and building bricks, pumice, perlite and other similar materials that are extracted by quarrying from the ground. The provincial governor shall grant the permit after the applicant has complied with all the requirements as prescribed by the rules and regulations.

The maximum area which a qualified person may hold at any one time shall be five (5) hectares: *Provided*, That in large-scale quarry operations involving cement raw materials, marble, granite, sand and gravel and construction aggregates, a qualified person and the government may enter into a mineral agreement as defined herein.

A quarry permit shall have a term of five (5) years, renewable for like periods but not to exceed a total term of twenty-five (25) years. No quarry permit shall be issued or granted on any area covered by a mineral agreement.

SEC. 79. *Quarry Fee and Taxes.* – A permittee shall pay a quarry fee as provided for under the implementing rules and regulations. The permittee shall also pay the exise tax as provided by pertinent laws.

SEC. 80. *Cancellation of Quarry Permit.* – A quarry permit may be cancelled by the provincial governor for violations of the provisions of this Act or its implementing rules and regulations or the terms and conditions of said permit: *Provided*, That before the cancellation of such permit, the holder thereof shall be given the opportunity to be heard in an investigation conducted for the purpose.

SEC. 81. *Commercial Sand and Gravel Permit.* – Any qualified person may be granted a permit by the provincial governor to extract and remove sand and gravel or other loose or unconsolidated materials outside ancestral domains which are used in their natural state, without undergoing processing from an area of not more than five (5) hectares and in such quantities as may be specified in the permit.

SEC. 82. *Industrial Sand and Gravel Permit.* – Any qualified person may be granted an industrial sand and gravel permit by the Bureau for the extraction of sand and gravel and other loose or unconsolidated materials outside ancestral domains that necessitate the use of mechanical processing covering an area of more than five (5) hectares at any one time.

The permit shall have a term of five (5) years, renewable for a like period but not to exceed a total term of twenty-five (25) years.

SEC. 83. *Exclusive Sand and Gravel Permit.* – Any qualified person may be granted an exclusive sand and gravel permit by the provincial governor to quarry and utilize sand and gravel or other loose or unconsolidated materials from public lands for his own use, *Provided*, That there will be no commercial disposition thereof.

SEC. 84. *Government Gratuitous Permit.* – Any government entity or instrumentality may be granted a gratuitous permit by the provincial governor to extract sand and gravel, quarry or loose unconsolidated materials outside ancestral domains needed in the construction of building and/or infrastructure for public use or other purposes over an area of not more than two hectares (2 has.) for a period coterminous with said construction.

SEC. 85. *Private Gratuitous Permit.* – Any owner of land may be granted a private gratuitous permit by the provincial governor to extract sand and gravel, quarry or loose unconsolidated materials within his property.

SEC. 86. *Guano Permit.* – Any qualified person may be granted a guano permit by the provincial governor to extract and utilize loose unconsolidated guano and other organic fertilizer materials in any portion of a municipality where he has established domicile outside ancestral domains. The permit shall be for specific caves and/or for confined sites with locations verified by the Department's field officer in accordance with existing rules and regulations. *Provided*, That extraction does not violate and is consistent with the provisions in the Cave Conservation Act and the Wildlife Act.

SEC. 87. *Gemstone Gathering Permit.* – Any qualified person may be granted a non-exclusive gemstone gathering permit by the provincial governor to gather loose stones useful as gemstones in rivers and other locations outside ancestral domains.

CHAPTER VIII. TRANSPORT, SALE AND PROCESSING OF MINERALS

SEC. 88. *Ore Transport Permit.* – A permit specifying the origin and quantity of non-processed mineral ores or minerals shall be required for their transport. Transport permits shall be issued by the Bureau. The absence of a permit shall be considered as *prima facie* evidence of illegal mining and shall be sufficient cause for the confiscation of the ores or minerals being transported, the tools and equipment utilized, and the vehicle containing the same.

SEC. 89. *Track Record.* – Only mining companies with demonstrated capacity and good environmental track record in mineral processing shall be allowed to extract minerals. The Council shall encourage contractors to put up processing plants within the community with the end in view of generating employment and developing other downstream industries.

SEC. 90. *Mineral Trading Registration.* – No person shall engage in the trading of mineral products, either locally or internationally, unless registered with the Department of Trade and Industry and accredited by the Department, with a copy of said registration submitted to the Bureau.

SEC. 91. *Mineral Processing Permit.* – No person shall engage in the processing of minerals without first securing a mineral processing permit from the Council. Mineral processing permits shall be for a period of five (5) years, renewable for like periods but not to exceed a total term of twenty-five (25) years.

CHAPTER IX. DEVELOPMENT OF COMMUNITIES, SCIENCE AND TECHNOLOGY

SEC. 92. *Expenditure for Community Development.* – A contractor shall assist in the development of the community, and the promotion of the general welfare of its inhabitants towards sustainable development. Community development projects shall in no way decrease the obligation of the corporation with regard to royalties and fees due to communities or local government units. Community development projects should be consistent with the Comprehensive Land Use Plans (CLUP), Ancestral Domains Sustainable Development and Protection Plan (ADSDPP) and annual investment plans of the LGUs, and the like.

SEC. 93. *Employment of Filipinos and training of members of the local community.* – A contractor shall give preference to Filipino citizens in all types of mining employment within the country. Members of the local community shall be trained in all aspects of the mining operations, including remining, recycling, rehabilitation, and the management thereof.

SEC. 94. *Use of Indigenous Goods, Services and Technologies.* – A contractor shall give preference to the use of local goods, services and scientific and technical resources in the mining operations, where the same are of equivalent quality and are available on equivalent terms as their imported counterparts.

SEC. 95. *Donation/Turn Over of Facilities.* – Prior to the cessation of mining operations occasioned by abandonment or withdrawal of operations on public lands by the contractor, the latter shall have a period of one (1) year therefrom within which to remove improvements; otherwise all the infrastructure, facilities and equipment shall be turned over or donated tax-free to the proper government authorities, national or local, to ensure that said infrastructure facilities and equipment are continuously maintained and utilized by the host and neighboring communities. A fine of One Hundred Thousand Pesos (P100,000.00) shall be imposed for every day of delay.

CHAPTER X. BENEFIT SHARING, TAXES AND FEES

SEC. 96. *Taxes and Fees.* – The contractor shall pay all taxes and fees as required by law, including, but not limited to:

- a) contractor's income tax;
- b) customs, duties and fees on imported capital equipment;
- c) value-added tax on imported goods and services;
- d) withholding tax on interest payments on foreign loans;
- e) withholding tax on dividends to foreign stockholders;
- f) documentary stamp taxes;
- g) capital gains tax;
- h) excise tax on minerals;
- i) local business tax;
- j) real property tax;
- k) community tax;
- l) occupation fees;
- m) registration and permit fees;
- n) water usage fees.

SEC. 97. *Government Share.* – Aside from the taxes and fees referred to in the preceding section, the Government shall have at least a share equivalent to ten per cent (10%) of the

gross revenues from the development and utilization of mineral resources that are owned by it to be set aside for the general fund of the government.

SEC. 98. *Indigenous Cultural Communities' Royalty.* – In case of mineral operations within ancestral domains, the contractor shall pay at least ten per cent (10%) of the gross revenues as royalty to the ICCs/IPs. Community development programs shall not be considered as royalty payment. The payment of the royalties shall directly be given to the communities in a process that build on traditional and customary laws.

Provided, That the royalty established in this Act shall be a minimum royalty payment and may still be subject to other conditions to be agreed by the parties, free from any external manipulation, interference, coercion, and other analogous acts, and obtained after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable and acceptable to them.

SEC. 99. *Scientific Research and Development Fund.* – A Scientific Research and Development Fund shall be set aside to be devoted to research and development of clean mining technologies, improvement of mining processes, mine rehabilitation, mitigating technologies, setting up and maintenance of an independent pool of experts, and operational expenses of the Bureau.

SEC. 100. *Legal Support Services Fund.* – A legal support fund shall be set aside for the use of the communities and local government units for cases that they may file against mining permittees or cases that may be filed against them by mining companies in trying to do their responsibility of protecting the rights of the marginalized groups, the environment and sustainable development in general.

SEC. 101. *Local Government Unit Share.* – Local Government Units shall be entitled to a share of the net revenues from mining operations which shall be paid directly to the provincial/independent component city/highly urbanized city treasurer/s for distribution to other local government units. To determine the government share, the following variables shall be considered:

- a) Classification of local government;
- b) Vulnerability;
- c) Human development index.

A percentage of this amount shall be set aside by the respective local government units for Disaster Risk Management. This fund shall likewise benefit the ICCs/IPs within the territory of the local government unit.

Provided, That the administrative and operational expenses of the Council shall also be taken from this share.

SEC. 102. *Mine Wastes and Tailings Fees.* – A semi-annual fee to be known as mine wastes and tailings fee is hereby imposed on all operating mining companies in accordance with the implementing rules and regulations. The mine wastes and tailings fee shall accrue to a fund to be used as support funds for monitoring activities of the Council. The Secretary is authorized to increase mine wastes and tailings fees, when public interest so requires.

SEC. 103. *Incentives.* – Incentives that shall be given to the contractors shall only be limited to pollution control or mitigation devices.

CHAPTER XI. SAFETY AND ENVIRONMENTAL PROTECTION

A. Safety

SEC. 104. *Mines Safety.* – All contractors and permittees shall strictly comply with all the mines and safety rules and regulations concerning the safe and sanitary upkeep of the mining development. Government personnel involved in the implementation of mines safety, health and environmental rules and regulations shall be covered under Republic Act No. 7305 or the Magna Carta of Public Health Workers.

SEC. 105. *Mine Labor.* – No person under sixteen (16) years of age shall be employed in any place of mining operations and no person under eighteen (18) years of age shall be employed in a mine.

SEC. 106. *Mine Supervision.* – All mining and quarrying operations shall have at least one (1) licensed mining engineer for every fifty (50) employees. Such engineer/s shall have at least five (5) years of experience in mining operations, and one (1) registered foreman.

SEC. 107. *Safety of Workers.* – All mining companies shall provide safeguards to the health and well-being of workers. The Regional Office of the Department of Labor and Employment shall inspect all mining sites within their areas of jurisdiction to determine the conditions of workers. Denial of entry shall be punishable under this Act. Representatives of labor unions shall also have visitorial rights.

SEC. 108. *Mine Inspection.* – The mines regional directors and the Council shall have jurisdiction over the safety inspection of all installations, surface or underground, in mining operations at reasonable hours of day or night and as much as possible in a manner that will not impede or obstruct work in progress of a contractor or permittee. Monitoring reports and recommendations of the Bureau shall be submitted to the Council.

SEC. 109. *Power to Issue Orders.* – The Mines Regional Director, in consultation with the Environmental Management Bureau, forthwith or within such time as specified in the order, require the contractor to remedy any practice connected with mining, which is not in accordance with safety and anti-pollution laws and regulations. In case of imminent danger to life or property, the Director may summarily suspend the mining operation until the danger is removed, or appropriate measures are taken by the contractor. Unreasonable delay to remove the danger or introduce the necessary improvements by the contractor shall be a cause for the cancellation of the mineral agreement.

SEC. 110. *Report of Accidents.* – In case of any incident or accident, causing or creating the danger of loss of life or serious physical injuries, the person in charge of operations shall immediately report the same to the regional office where the operation are situated. Failure to report the same without justifiable reason shall be cause for the imposition of administrative sanctions prescribed in the rules and regulation implementing this Act.

B. Environmental Protection

SEC. 111. *Environmental Insurance.* – Contractors and mineral processing permit holders shall be obliged to execute an insurance contract as an environmental assurance for each and every source of pollution or disaster, relative to the “worst case scenario” costs, following accepted actuarial standards, *Provided*, That in no way shall this provision be construed to remove or reduce the liability of the contractors and/or permit holders to compensate any damage caused by their operations. *Provided further*, That the insurer shall be an accredited international company in good standing.

Prior to the approval of the insurance contract by the DOST, the DOST shall seek and consider the opinion of an independent expert as to the financial credibility of the insurer.

SEC. 112. *Calamity and Human Rights Protection Fund.* – Persons issued a mineral agreement shall deposit Five Million Pesos (P5,000,000.00) semi-annually in an interest-bearing account, a common fund maintained by the national government which shall be used for, responding to, or ameliorating the effects of calamities, natural disasters and human rights violations including militarization, displacement, and forcible evacuation in any part of the country in relation to mining activities. Provided, That in no way shall this provision be construed to remove or reduce the liability of the contractors and/or permit holders to compensate any damage caused by their operations.

SEC. 113. *Performance Bond.* – The contractor shall put up a bond in an amount equivalent to fifty per cent (50%) of the projected cost of rehabilitation as validated by independent studies. This amount shall be deposited in an interest-bearing account. The bond shall be forfeited in the event that the contractor shall fail or default in the rehabilitation or remediation of the mining area as included in the work plan of the contractor or abandons the mine at any time of its operations.

SEC. 114. *Rehabilitation.* – Contractors and permittees shall technically and biologically rehabilitate the excavated, mined-out, tailings covered and disturbed areas to the condition of environmental safety, as may be provided in the implementing rules and regulations of this Act. A mine rehabilitation fund shall be created, based on the contractor's approved work program, and shall be deposited as a trust fund in a government depository bank and used for physical and social rehabilitation of areas and communities affected by mining activities and for research on the social, technical and preventive aspects of rehabilitation. Failure to fulfill the above obligation shall mean immediate suspension or closure of mining activities of the contractor/permittee concerned.

SEC. 115. *Progressive Rehabilitation.* – Contractors shall also conduct progressive rehabilitation activities.

SEC. 116. *Adoption of Precautionary Principle.* – When an activity related to mining raises threats of harm to human health or the environment, precautionary measures shall be taken proactively even if some cause and effect relationship are not fully established scientifically. The mining proponent and the Bureau shall also be obliged to disclose whether or not the cause and effect have not yet been scientifically established.

SEC. 117. *Adoption of Polluter Pays Principle.* – Polluters shall pay for the damage they cause to the environment. The amount of damages shall be determined by accredited independent consultants, to be chosen from a list and agreed upon by both the mining proponent and by the Council.

SEC. 118. *Tailings Impoundment.* – Tailings impoundments shall be built away from critical watershed drainage areas. Furthermore, it shall be ensured that it will not endanger critical watershed areas or low-lying valleys in the event of accidents under abnormal conditions. Tailings impoundments and dams shall meet the international standards for large dams.

SEC. 119. *Dumping of waste.* – Dumping of waste or tailings in any body of water shall be prohibited. Provisions of the Clean Water Act shall be strictly implemented.

SEC. 120. *Use of toxic chemicals and methods.* – At all times, mining contractors shall use chemicals or reagents which would result to the least environmental and social destruction. The use of mercury and cyanide for the extraction of gold, silver and other

minerals shall be prohibited. The use of blow torching to separate gold from amalgam shall likewise be prohibited.

SEC. 121. *Preservation of topsoil.* – The removed topsoil, or the more productive horizons of the soil shall be preserved for other uses.

SEC. 122. *Priority use for water.* – The Natural Water Resources Board shall investigate any existing use of water resources in the area whether or not covered by any existing water permit or registration. Upon determination of any existing use, the applicant shall procure the consent of all water users and/or the free prior and informed consent of ICCs/IPs with or without water permits within the same groundwater network or any downstream users of water resources. In all instances, priority shall be given to use of water for domestic, municipal, and agricultural purposes. If potential negative impacts on other water users are identified, the water permit shall not be granted. For water resources within the ancestral domain of indigenous peoples, no water permit shall be granted by the National Water Resources Board without the free prior and informed consent of ICCs/IPs.

SEC. 123. *Recycling of water resources.* – Water used in mining operations shall be recycled. Mining contractors shall be required to provide for the methods or equipments for the recycling or reuse of water. Released contaminated water shall be treated accordingly to meet national standards. Released water must at least be equivalent in quality to the baseline water quality.

SEC. 124. *Water user fee.* – A water user fee that reflects the value of water to the country and community shall be imposed by the Council for water used in mining operations. Contractors shall pay the fee to the National Water Resources Board which shall use the same for monitoring and improvement of the affected waterways and systems and the mitigation of negative impacts thereon to ensure that communities shall have access to clean water.

C. Acid Mine Drainage

SEC. 125. *Prohibition from using acid-generating waste rock to build roads or dams.* – To prevent or mitigate acid mine drainage, there shall be a prohibition against using acid-generating waste rock to build roads or dams or other infrastructures. The use of such materials shall only be used after treatment to neutralize the effect of acid mine drainage.

SEC. 126. *Establishment of a prediction and monitoring system.* – A prediction and monitoring system shall be in place to identify potential acid-producing materials and monitor their production of acid waste.

SEC. 127. *Avoidance of waterways.* – Open pits, waste rock piles and tailings impoundments shall not be built near or on waterways to prevent contact and subsequent acid production and groundwater contamination.

SEC. 128. *Remining.* – Remining shall be prioritized over the opening of new mines to maximize and recover the remaining minerals from the rejects or wastes of previous mines and mining operations. *Provided*, That remining operations shall follow the processes, standards, parameters and guidelines set for mining operations.

SEC. 129. *Suits after the termination of contracts or projects.* – Recognizing that the effects of mining may be seen or felt, actions relating to health of affected communities or peoples, environmental degradation and other similar effects may be maintained against the project proponent and/or persons even after the mineral agreement or mining project has terminated.

CHAPTER XII. RESOLUTION OF CONFLICTS

SEC. 130. *Panel of Arbitrators.* – There shall be a panel of arbitrators in the regional office of the Department composed of three (3) members, two (2) of whom must be members of the Philippine Bar in good standing and one (1) a licensed mining engineer or a professional in a related field, and duly designated by the Secretary as recommended by the Mines and Geosciences Bureau Director. Those designated members of the panel shall serve as such in addition to their work in the Department without receiving any additional compensation. As much as practicable, said members shall come from the different bureaus of the Department in the region. The presiding officer thereof shall be selected by the drawing of lots. His/her tenure as presiding officer shall be on a yearly basis. The member of the panel shall perform their duties and obligations in hearing and deciding cases until their designation is withdrawn or revoked by the Secretary. Within thirty (30) working days, after the submission of the case by the parties for decision, the panel shall have exclusive and original jurisdiction to hear and decide on the following:

- a. Questions involving compliance with the established technical guidelines and standards herein established, or those to be established by the implementing rules and regulations of this Act;
- b. Questions involving the compliance with technical procedures herein established, or those to be established by the implementing rules and regulations; and
- c. Other similar instances wherein the technological and technical expertise of the Department shall be needed.

Disputes involving real rights, contractual obligations and other causes of action that are outside the technological and technical expertise of the Panel of Arbitrators shall be under the jurisdiction of the regular courts or as otherwise provided by other special laws.

Provided, That disputes pending before the Bureau and the Department at the date of the effectivity of this Act shall undergo an immediate review within sixty (60) working days upon the passage of this Act to determine the cause of action. Those which are outside the technical expertise of the Department or Bureau shall be refiled with the appropriate court, without costs to the complainant or petitioner.

SEC. 131. *Appeal.* – The decision or order of the panel of arbitrators may be appealed by the party not satisfied thereto to the Mines Adjudication Board within fifteen (15) days from receipt thereof which must decide the case within thirty (30) days from submission thereof for decision.

SEC. 132. *Mines Adjudication Board (MAB).* – The Mines Adjudication Board shall be composed of three (3) members. The Secretary of the DOST shall be the Chairperson with the Director of the Mines and Geosciences Bureau and the Undersecretary for Operations of the Department as members thereof. The Board shall have the following powers and functions:

- a. To promulgate rules and regulations governing the hearing and disposition of cases before it, as well as those pertaining to its internal functions, and such rules and regulations as may be necessary to carry out its functions;
- b. To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statement of accounts, agreements, and other documents as may be materials to a just determination of the matter under investigation, and to testify in any investigation or hearing conducted in pursuance of this Act;

- c. To conduct hearings on all matters within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or private, adjourn its hearings at any time and place, refer technical matters or accounts to an expert and to accept his/her report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend, or waive any error, defect or irregularity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it, and dismiss the mining dispute as part thereof, where it is trivial or where further proceedings by the Board are not necessary or desirable:
 1. To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefore; and
 2. To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social and economic stability.

In any proceeding before the Board, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Act that shall govern. The Board shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process and social justice. In any proceeding before the Board, the parties may be represented by a legal counsel. The findings of fact of the Board shall be conclusive and binding on the parties and its decision or order shall be final and executor.

A petition for review by *certiorari* and question of law may be filed by the aggrieved party with the Supreme Court within thirty (30) days from the receipt of the order or decision of the Board.

CHAPTER XIII. ACCESS TO JUSTICE

SEC. 133. *Obligation to respect human rights.* – Corporations shall respect, protect and promote the human rights of communities affected by mining, including the right to life, liberty and property, freedom of movement, right of public participation and the right to self-determination of ICCs/IPs.

SEC. 134. *Violations of human rights.* – Extrajudicial killing, torture, involuntary disappearance, forcible displacement of populations, and imposition of toll fees which impede the freedom of movement within mineral areas, deprivation of food and water sources, vote-buying and bribery for the purpose of securing the consent of endorsement for the mining project, and other analogous acts are violations of human rights. Violations of human right by contractors shall cause the immediate cancellation of mineral agreements. The offending contractor shall be perpetually disqualified from being granted a mineral agreement. All equipment and assets of the corporation or person shall be confiscated in favor of the government.

SEC. 135. *Use of paramilitary and military forces.* – All mining companies are strictly prohibited to employ paramilitary groups. Use of private and military forces shall result in the cancellation of the mineral agreement and the filing of appropriate civil, criminal and/or administrative charges.

SEC. 136. *Strategic Legal Action Against Public Participation (SLAPP).* – SLAPPs shall be strictly prohibited. SLAPP is any legal action, whether civil, criminal or administrative, filed to harass, vex, exert legal action or stifle legal recourses of

community members complaining against violations of this Act or enforcing the provisions of this Act, or exercising their freedom of assembly or right of public participation. The investigating prosecutor or court shall immediately determine within a period of thirty (30) days from filing thereof whether a legal action is a SLAPP and accordingly dismiss the same.

SEC. 137. *Indigents' Suit.* – Indigents shall be exempt from payment of any administrative or court fees, including docket fees for the filing of a case. Lawyers shall be provided to pauper litigants in case they could not afford legal services.

SEC. 138. *Application of the customary laws of ICCs/IPs.* – The contractor shall respect the customary laws of the ICCs/IPs and shall submit to processes of their customary laws, *Provided*, That these laws are not contrary to the provisions of the Constitution.

SEC. 138. *Strict liability.* – Mining corporations are strictly liable for all damages that the mining operations might cause. In case of any actual damage, the burden of proof shall lie with the corporations.

SEC. 140. *Piercing the corporate veil.* – When the separate personality of the corporation from its shareholders is being invoked as defense in order to perpetuate a crime, fraud or other machinations, or evade liability, the separate personality of the corporations shall be set aside. Civil, criminal and administrative actions may thus be filed directly against the members of the Board of Directors, officer and/or individual stakeholders.

SEC. 141. *Citizen Suits.* – For the purpose of enforcing the provisions of this Act or its implementing rules and regulations, any citizen may file appropriate civil, criminal and administrative suits against any of the following:

- a. Any person who violates or fails to comply with the provisions of this Act or its implementing rules and regulations;
- b. Any public officer with respect to orders, rules and regulations inconsistent with this Act;
- c. Any public officer who willfully or grossly neglects the performance of an act specifically enjoined as a duty by this Act or its rules and regulations; or abuses the authority in the performance of a duty/ies under this Act or its implementing rules and regulations.

The court shall exempt such actions from the payment of filing fees, except fees for actions not capable of pecuniary estimations, and shall likewise, upon *prima facie* showing of non-enforcement or violation complained of, exempt the plaintiff from filing an injunction bond for the issuance of a preliminary injunction.

Within thirty (30) days upon the filing of the case, the court will determine whether or not the complaint is malicious or baseless and shall accordingly dismiss the petition.

CHAPTER XIV. PENAL PROVISIONS

SEC. 142. *Grounds for the cancellation of permits:*

- a. Violation of any provision of this Act;
- b. Human rights violations perpetrated by the contractor or any agent of the contractor;
- c. Non-payment of taxes;

- d. Bribery, use of force, intimidation, threat, coercion of public officials and communities;
- e. Any act that shall create or contribute to conflicts;
- f. Other analogous acts.

Provided, That violations of environmental provisions shall cause the immediate cancellation of permits, including but not limited to Sections 118, 119, 120, 121, 125, and 127, and the contractor shall be required to pay for the rehabilitation, restoration or clean up of the impacts of such violations.

Corporations, corporate directors/officers found guilty of the above enumerations may be subjected to perpetual ban in the mining operations.

SEC. 143. *False Statements.* – Any person who knowingly presents any false application, declaration, or evidence to the Government or publishes or causes to be published any prospectus or other information containing any false statement relating to mines, mining operations or mineral agreements and permits shall, upon conviction, be penalized by a fine not exceeding One Hundred Thousand Pesos (P100,000.00).

SEC. 144. *Illegal Exploration.* – Any person undertaking exploration work without the necessary exploration permit shall, upon conviction, be penalized by a fine of not exceeding Five Million Pesos (P5,000,000.00).

SEC. 145. *Panning.* – Panning shall be considered an act of mining. Any person undertaking panning without the necessary mining permit shall upon conviction, be convicted of illegal panning penalized under Section 27 (R.A. 7076). In addition, such person shall be liable to pay damages made to the environment by reasons of such panning. In the case of associations, partnerships, or corporations, the president and each of the directors thereof shall be responsible for the acts committed by such association, corporation, or partnership.

SEC. 146. *Theft of Minerals.* – Any person extracting minerals and disposing the same without a mining agreement, lease, permit, license, or steals minerals or ores or the products thereof from mines or mills or processing plants shall, upon conviction, be imprisoned from six (6) months to six (6) years or pay a fine from One Hundred Thousand Pesos (P100,000.00) to One Million Pesos (P1,000,000.00) or both, at the discretion of the appropriate court. In addition, he/she shall be liable to pay damages and compensation for the minerals removed, extracted, and disposed of. In the case of associations, partnerships, or corporations, the president and each of the directors thereof shall be responsible for the acts committed by such association, corporation, or partnership.

SEC. 147. *Unauthorized Dealing, Selling, and/or Buying of Gold.* – Any person, partnership or corporation who shall sell, buy or in any manner deal gold from any miner or person without being duly authorized by the Bangko Sentral ng Pilipinas shall be punished as unauthorized dealing and shall be penalized in accordance with Section 144 of this Act.

SEC. 148. *Vitiation of FPIC.* – Any person found to have vitiated the consent of the ICCs/IPs through bribery, threat, force, and/or intimidation, or any other similar means, shall suffer the penalty of six (6) years and one (1) day to ten (10) years in prison, and a fine of at least Two Million Pesos (P2,000,000.00). If the perpetrator is a government official, the penalty shall be eight (8) years and one (1) day to twelve (12) years imprisonment, and a fine of at least Four Million Pesos (P4,000,000.00). He/she shall be perpetually prohibited from assuming public office, and shall be disqualified from receiving other benefits by virtue of his/her position in government.

SEC. 149. *Violation for human rights violations.* – Contractors or other persons who have violated the human rights of communities in connection with the mining operations shall be penalized with ten (10) years to fourteen (14) years imprisonment and a fine of at least Five Million Pesos (P5,000,000.00) and shall indemnify the victims.

SEC. 150. *Amendment to Section 27 of Republic Act No. 7076 or the Small-scale Mining Act.* – Violation of the provision of R.A. 7076 or of the rules and regulations issued pursuant hereto shall be penalized with imprisonment of six (6) years and one (1) day to twelve (12) years, and shall include the confiscation and seizure of equipment, tools and instruments, immediate suspension or closure of the mining activities of the permittee concerned and revocation or cancellation of permit.

SEC. 151. *Abandonment.* – Contractors and/or permittees who shall abandon mines shall be perpetually banned or disqualified from conducting mining operations, directly or indirectly. The ban and/or disqualification shall include the officers and directors of corporations that have abandoned mines.

SEC. 152. *Confiscation of equipment and property.* – The equipment and property of contractors and permit holders violating this Act shall be forfeited in favors of the government.

SEC. 153. *Non-application of the corporate veil.* – Any person violating the provisions of Commonwealth Act No. 108, or the Anti-Dummy Law of the Philippines as amended, or is found to have used the corporate structure to defeat the provisions of the Act shall suffer the penalty of Five Million Pesos (P5,000,000.00) and perpetual ban in the mining industry.

SEC. 154. *Reinstatement of revoked permits.* – After notice and hearing, revoked permits that have undergone due process may be reinstated, *Provided*, That it may only be reinstated once.

CHAPTER XV. TRANSITORY PROVISIONS

SEC. 155. There shall be a moratorium on all mining activities until all the systems are in place for the proper implementation of the law.

SEC. 156. All existing mining permits, licenses and agreements are deemed cancelled.

SEC. 157. The classification of public lands as mineral reservations pursuant to pre-existing laws shall hereby cease. All such lands shall be closed to mining unless opened thereto in accordance with the provisions of this Act. The President's power to declare mineral reservations shall henceforth cease to exist. A review of the current mineral land classification shall be conducted to determine the best livelihood and economic option for the said area.

SEC. 158. The members of the panels of arbitrators and the provincial or city mining regulatory boards established under Republic Act No. 7942 shall hold-over their positions until replaced in accordance with the provisions of this Act.

CHAPTER XVI. FINAL PROVISIONS

SEC. 159. *Separability Clause.* – The provisions of this Act are hereby declared to be separable and, in the event that any such provisions are declared unconstitutional, the other provisions which are not affected thereby shall remain in full force and effect.

SEC. 160. *Repealing Clause.* – Republic Act No. 7942, Presidential Decree 463, Presidential Decree 512, and other related mining laws are hereby repealed. All provisions in laws, decrees and other regulations inconsistent with this present law shall be deemed amended or repealed if the inconsistency is irreconcilable.

SEC. 161. *Funds.* – The amount of One Hundred Billion Pesos (P100,000,000,000.00) is hereby appropriated for the proper functioning of the Bureau, the Council, and other bodies established under this Act.

SEC. 162. *Implementing Rules and Regulations.* – The implementing rules and regulations of this Act shall be the product of joint collaboration by the Department, and representatives from the local government units, peoples' organizations, sectoral organizations and non-governmental organizations, and shall be drawn up after appropriate public consultations.

SEC. 163. *Effectivity Clause.* – This Act shall take effect within fifteen (15) days following its publication in two (2) newspapers of general circulation in the Philippines.

Approved,