

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 3533



Introduced by **BAYAN MUNA**
Reps. NERI J. COLMENARES and CARLOS ISAGANI T. ZARATE

AN ACT
INCLUDING AMONG THE AREAS CLOSED TO MINING APPLICATIONS
THOSE DECLARED BY LOCAL GOVERNMENT UNITS AS NO MINING ZONES,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7942 OTHERWISE KNOWN
AS THE PHILIPPINE MINING ACT OF 1995, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

This bill seeks to close areas declared by local government units (LGUs) as No-Mining Zones from mining applications and operations, amending for the purpose the Philippine Mining Act of 1995.

While mining is recognized as one of the contributors to the country's gross domestic product, there is a growing resistance to large scale mining in the areas where these operate. Communities from different provinces such as Capiz, Marinduque, Palawan, Romblon, Negros Occidental, Eastern Samar, and South Cotabato have passed provincial ordinances declaring a ban on mining operations and/or a moratorium on applications.

The communities in the host provinces are the ones directly affected by mining operations and therefore have the right to be heard. Thus, the national government should respect and recognize these local government ordinances banning mining operations in their respective territories. This is in keeping with the country's laws and in recognition of the LGUs' role to protect and preserve the environment and the people's welfare, as mandated by the Local Government Code.

There is a need to respect the prerogative of local government units to declare areas under their jurisdiction as no mining zones. In a case decided by the Supreme Court (*Tano vs. Socrates* G.R. No. 220249, August 21, 1997), the Supreme Court sustained the local ordinance passed by Puerto Princesa City which banned the export of live fish from Puerto Princesa to curtail the practice of cyanide fishing. The High Tribunal held that; "The Local Government Code provisions invoked by private respondents (Puerto Princesa City) merely seek to give flesh and blood to the right of the people to a balanced and healthful ecology. In fact, the General Welfare Clause expressly mentions this right:

SEC. 16. *General Welfare.* Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants."

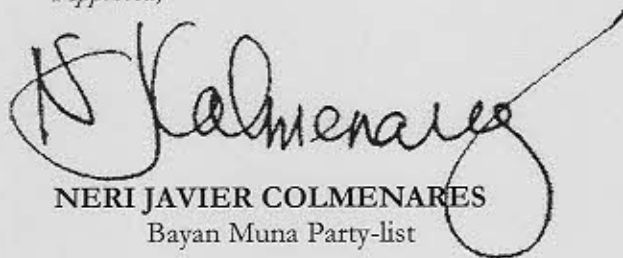
By supporting them through a law that will uphold their power to regulate mining, LGUs will become more empowered and responsible to their constituents. By recognizing their role in the protection and preservation of the environment and the country's natural resources for the present and the future generations, the people will participate more in the decision-making processes of the state.

Being an extractive industry, mining poses great threats to our fragile environment. Local government units must be given the right to chart the destiny of their environment. This bill seeks to do that by including among the areas closed for mining applications areas declared by local government units as no-mining zones.

The bill likewise prohibits mining in prime agricultural lands as well as areas containing cultural properties.

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

Approved,


NERI JAVIER COLMENARES
Bayan Muna Party-list


CARLOS ISAGANI T. ZARATE
Bayan Muna Party-list

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

Section 1. Declaration of Policy. It is hereby a declared policy of the State to ensure that the power of local government units, consistent with its mandate under the general welfare clause of the Local Government Code, to enact ordinances to enhance the right of the people to a balanced ecology, is upheld at all times.

Pursuant to this, the right of local government units to exempt areas under their jurisdiction from mining applications is likewise sustained.

Section 2. Section 19, Chapter III of Republic Act No. 7942 otherwise known as the Philippine Mining Act of 1995 is hereby amended to read as follows:

"SEC. 19. Areas Closed to Mining Applications. -- Mineral agreements, including financial and technical assistance agreements shall not be allowed in:

- a) military and other government reservations, except upon prior written clearance by the government agency concerned;
- b) 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 and the private entity concerned;
- c) In areas covered by valid and existing mining rights;

d.) In areas expressly prohibited by law;

E.) IN AREAS DECLARED BY LOCAL GOVERNMENT UNITS AS NO-MINING ZONES;

F.) IN PRIME AGRICULTURAL LANDS, IRRIGABLE AND IRRIGATED LANDS AS DEFINED BY REPUBLIC ACT 9700;

G.) IN AREAS WHEREIN THERE ARE CULTURAL PROPERTY AS ENUMERATED UNDER REPUBLIC ACT 10066;

h.) 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

i) Old growth or virgin forests proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries as defined by law in areas expressly prohibited under the National Integrated Protected Areas System (NIPAS) under Republic Act No. 7586. Department Administrative Order No. 25, series of 1992 and other laws.”

Section 3. *Separability Clause.* If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

Section 4. *Repealing Clause.* Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

Section 5. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,