

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. **3772**



Introduced by **Honorable Joseph F. Violago**

Explanatory Note

One of the fundamental state policies enshrined in our Constitution is the genuine and meaningful autonomy of local government units (Art. II, Sec. 25) to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals, and pursuant to the mandate given by the Constitution, Congress enacted Republic Act No. 7160, otherwise known as the Local Government Code of 1991, replacing the old local government code (Batas Pambansa Blg. 337).

As envisioned and designed by the framers of the Constitution and by members of Congress, the local government structures in the Philippines are divided into four levels namely the autonomous regions, provinces and cities independent from a province, component cities and municipalities and the barangays---all called "local government units (LGUs)." The barangay---the smallest political unit--- was given the most important recognition when the Code clearly described and stated therein that, "as the basic political unit, the barangay serves as the primary planning and implementing unit of government policies, plans, programs, projects, and activities in the community, and as a forum wherein the collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled."

The law, therefore, provided all the essential mechanisms to fulfill this mandate, among which is the provision of a more responsive and accountable local government structure and among others, the allocation among the different local government units their powers, responsibilities and resources.

It also ensured that the vesting of duty, responsibility, and accountability in local government units shall be accompanied with provision for reasonably adequate resources to discharge their powers and effectively carry out their functions; hence, they shall have the power to create and broaden their own sources of revenue and the right to a just share in national taxes and an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas. Together with this, it also ensured that the capabilities of local government units, especially the municipalities and barangays, shall be enhanced by providing them with opportunities to participate actively in the implementation of national programs and projects.

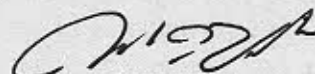
It, also, through the General Welfare Clause, made all LGUs as co-partners of the national government in the duty and responsibility of managing and maintaining ecological balance within their territorial jurisdiction, while at the same time stressed that the realization of local autonomy shall be facilitated not only through the extension of adequate technical and material assistance to less developed and deserving local government units but also through an improved coordination of national government policies and programs.

It is unfortunate, however, that due to inadvertence, perhaps, and possibly, by the sheer length (four volumes) and the intricacies of the law, that the ideal balance or sharing of powers and responsibilities were not fully effected, particularly in the management and utilization of sand, gravel and other quarry resources.

Hence, as mandated by the Local Government Code itself, there shall be a continuing mechanism to enhance local autonomy not only through administrative and organization reforms but also by legislation---and which gives support for the very spirit and reason for the filing of this proposed initiative.

In essence, this bill seeks to empower municipalities and cities to exercise police powers on sand, gravel and other quarry resources on their territory to be used exclusively for public purposes by introducing amendments in the Local Government Code of 1991 and the Philippine Mining Act of 1995. This will pave the way for a more equitable sharing of power and responsibilities and also result to a much improved monitoring and coordination of infrastructure projects, with both contributing verily to a more enhanced and meaningful local autonomy on all levels of local governance.

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



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AN ACT
PROVIDING FOR A MORE EQUITABLE SHARING OF DUTIES AND RESPONSIBILITIES BY AND BETWEEN LOCAL GOVERNMENT EXECUTIVES IN THE MANAGEMENT OF SAND, GRAVEL AND OTHER QUARRY RESOURCES IN THEIR RESPECTIVE JURISDICTIONS, AMENDING FOR THIS PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT 7160, ALSO KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991 AND REPUBLIC ACT NO. 7941, ALSO KNOWN AS THE PHILIPPINE MINING ACT OF 1995

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

SECTION 1. Section 138 of Republic Act 7160 is hereby amended to read as follows:

SEC. 138. Tax on Sand, Gravel and Other Quarry Resources. - The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction. The permit to extract sand, gravel and other quarry resources shall be issued [exclusively] by the provincial governor **OR THE CITY/MUNICIPAL MAYOR, AS THE CASE MAY BE**, pursuant to the ordinance of the [sangguniang panlalawigan] **CONCERNED SANGGUNIAN.**

THE EXTRACTION OF THESE RESOURCES SHALL BE CLOSELY MONITORED, CHECKED AND AUDITED BY THE BARANGAY OFFICIALS OF THE PLACE WHERE SUCH ACTIVITY IS BEING MADE OR CONDUCTED.

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SEC. 2. Section 43 of Republic Act No. 7942 is hereby amended to read as follows:

Sec. 43 Quarry Permit. Any qualified person may apply to the provincial/city mining regulatory board for a quarry permit on privately-owned lands and/or public lands for building and construction materials such as marble, basalt, andesite, conglomerate, tuff, adobe, granite, gabbro, serpentine, inset filing 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, **WITH THE CONCURRENCE OF THE CITY/MUNICIPAL MAYOR, AS THE CASE MAY BE**, shall grant the permit after the applicant has complied with all the requirements as prescribed by the rules and regulations. **CONSULTATIONS SHALL ALSO BE CONDUCTED AT THE**

BARANGAY/S AFFECTED BY THE QUARRYING OPERATIONS TO ACCORD THE LOCAL OFFICIALS AND RESIDENTS THEREIN SUFFICIENT AND REASONABLE TIME TO DISCUSS THEIR CONCERNS OR ANY ISSUE RELATIVE TO SUCH ACTIVITIES.

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SEC. 3. Section 45 of Republic Act No. 7942 is hereby amended to read as follows:

Sec. 45 Cancellation of Quarry Permit. A quarry permit may be cancelled by the provincial governor **AND/OR BY THE CITY OR MUNICIPAL MAYOR** 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. 4. Section 46 of Republic Act No. 7942 is hereby amended to read as follows:

Sec. 46 Commercial Sand and Gravel Permit. Any qualified person may be granted a permit by the provincial governor **WITH THE CONCURRENCE OF THE CITY/MUNICIPAL MAYOR, AS THE CASE MAY BE**, to extract and remove sand and gravel or other loose or unconsolidated materials which are used in their natural state, without undergoing processing from an area of not more than five hectares (5 has.) and in such quantities as may be specified in the permit.

SEC. 5. Section 47 of Republic Act No. 7942 is hereby amended to read as follows:

Sec. 47 Industrial Sand and Gravel Permit. Any qualified person may be granted an industrial sand and gravel permit by the Bureau **WITH THE CONCURRENCE OF THE PROVINCIAL GOVERNOR, CITY OR MUNICIPAL MAYOR, AS THE CASE MAY BE, BARANGAY CHAIRMAN AND MAJORITY OF THE BARANGAY COUNCIL** for the extraction of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing covering an area of more than five hectares (5 has.) 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. 6. Section 48 of Republic Act No. 7942 is hereby amended to read as follows:

Sec. 48 Exclusive Sand and Gravel Permit. Any qualified person may be granted an exclusive sand and gravel permit by the provincial governor **WITH THE CONCURRENCE OF THE CITY OR MUNICIPAL MAYOR, AS THE CASE MAY BE, AND BARANGAY CHAIRMAN** 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.

A mineral agreement or a financial technical assistance agreement contractor **MAY** [shall, however,] have the right to extract and remove sand and gravel and other loose

unconsolidated materials [without need of a permit] within the area covered by the mining agreement for the exclusive use in the mining operations **ONLY AFTER THE APPROVAL OF A PERMIT FOR SUCH PURPOSE THAT MAY BE GRANTED BY THE PROVINCIAL GOVERNOR WITH THE CONCURRENCE OF THE CITY OR MUNICIPAL MAYOR, AS THE CASE MAY BE, THE BARANGAY CHAIRMAN AND MAJORITY OF THE BARANGAY COUNCIL**: Provided, That monthly reports of the quantity of materials extracted therefrom shall **ALSO** be submitted to the mines regional office concerned: Provided, further, That said right shall be coterminous with the expiration of the agreement.

Holders of existing mining leases shall likewise have the same rights as that of a contractor, **AND SUBJECT TO THE SAME AFOREMENTIONED CONDITIONS**: Provided, That said right shall be coterminous with the expiry dates of the lease.

SEC. 7. Section 49 of Republic Act No. 7942 is hereby amended to read as follows:

Sec. 49 Government Gratuitous Permit. Any government entity or instrumentality may be granted a gratuitous permit by the [provincial governor] **CITY OR MUNICIPAL MAYOR** to extract sand and gravel, quarry or loose unconsolidated materials 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. 8. Section 50 of Republic Act No. 7942 is hereby amended to read as follows:

Sec. 50 Private Gratuitous Permit. Any owner of land may be granted a private gratuitous permit by the provincial governor, **THE CITY OR MUNICIPAL MAYOR**.

SEC. 9. Section 51 of Republic Act No. 7942 is hereby amended to read as follows:

Sec. 51 Guano Permit. Any qualified person may be granted a guano permit by the provincial governor **WITH THE CONCURRENCE OF THE BARANGAY CHAIRMAN AND MAJORITY OF THE BARANGAY COUNCIL** to extract and utilize loose unconsolidated guano and other organic fertilizer materials in any portion of a municipality where he has established domicile. 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.

SEC. 10. Section 52 of Republic Act No. 7942 is hereby amended to read as follows:

Sec. 52 Gemstone Gathering Permit. Any qualified person may be granted a non-exclusive gemstone gathering permit by the [provincial governor] **BY THE CITY OR MUNICIPAL MAYOR, AS THE CASE MAY BE**, to gather loose stones useful as gemstones in rivers and other locations. **THE CONCERNED BARANGAY SHALL CLOSELY MONITOR SAID ACTIVITY AND SHALL FILE THE NECESSARY REPORT WITH THE CITY OR MUNICIPAL GOVERNMENT FOR ANY VIOLATIONS OF CONDITIONS STATED IN THE PERMIT.**

SEC. 11. Repealing Clause. All laws, executive orders, rules and regulations or parts thereof which may be inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

SEC. 12. Effectivity Clause. This Act shall take effect within fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,