



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



Sixteenth Congress
Second Regular Session.

HOUSE BILL NO. **5485**

Introduced by Honorable Rosenda Ann Ocampo

EXPLANATORY NOTE

This bill seeks to require owners and operators of environmentally-critical businesses to secure a mandatory environmental insurance coverage for the payment of damages and environmental rehabilitation as a result of environmental impairment from its operation.

The economy of the country is steadily increasing due to the growth of commercial and industrial businesses. While these businesses provide investments, incentives and employment, its large-scale operations may cause environmental disasters and undue sufferings to the people. To ameliorate the people and rehabilitate the environment from the environmental damages caused by these businesses, it is essential to institute a Mandatory Environmental Insurance Coverage.

The Mandatory Environmental Insurance Coverage is designed to relieve a business firm of the financial burden to spend for environmental loss or damage as a consequence of its project's construction or operation. It will answer for all claims for the payment of damages to health and property, environmental rehabilitation, remediation and clean-up costs and expenses.

There have been many instances of man-made environmental damages like the 1996 Marcopper Mining tragedy in Marinduque which led to the biological death of the Boac and Makalupnit rivers, destroyed hectares of farmlands and displaced families. The 2005 and 2007 massive fish kills in Rapu-Rapu, Albay caused by cyanide spills from the mining operations of Lafayette, Philippines, Inc.

also caused severe damage to the community. However, despite these environmental disasters, there is still no policy to ensure adequate compensation for communities affected by man-made disasters.

Although the government recognizes the indispensable role of the private sector, encourages private enterprise and provides incentives to needed investments, it also protects and advances the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. This bill is essential, therefore, to protect the business sector, the people and the environment.

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



ROSENDA ANN OCAMPO



AMADO S. BAGATSING



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AN ACT
REQUIRING MANDATORY ENVIRONMENT INSURANCE COVERAGE
FOR ENVIRONMENTALLY-CRITICAL BUSINESSES

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

SECTION 1. *Mandatory Environment Insurance Coverage.* – All owners and operators of environmentally-critical businesses shall be required to secure a Mandatory Environmental Insurance Coverage (MEIC) to compensate for damages to health and property, environmental rehabilitation, remediation and clean-up costs and expenses as a result of environmental impairment arising from their operations.

For purposes of this Act, environmentally-critical businesses refer to commercial and industrial establishments and enterprises, among others, that could pose serious risks to people and the environment.

SECTION 2. *Forms of Mandatory Environment Insurance Coverage.* –

The Mandatory Environment Insurance Coverage shall be obtained only from bonding or insurance companies duly accredited by the Department of Environment and Natural Resources (DENR) in the following forms:

a) Environmental Performance Bond – which shall be required for all ongoing activities or projects and applications for Environmental Compliance Certificate or Certificate of Non-coverage to guarantee adequate and timely compliance with the environmental standards and the terms and conditions set forth by the DENR during the pre-development, development and construction phases of the project. The Environmental Performance Bond shall answer for all environmental damages, penalties and legal obligations which may arise from the failure of the project proponent to comply with its undertakings during the aforementioned phases; and

b) Environmental Pollution, Impairment and Clean-Up Liability Insurance – which shall be required for all existing and future activities or projects to cover operational phases, including those that have been issued an Environmental Compliance Certificate or Certificate of Non-coverage. The Environmental Pollution, Impairment and Clean-Up Liability Insurance shall answer for all claims arising from damages to the environment, bodily injury, and property damage arising from a pollution event including environmental

rehabilitation, clean-up or remediation costs and expenses for contamination or impairment of the environment.

The DENR shall determine which businesses or industries shall be classified as environmentally-critical and shall be required to obtain an Environmental Performance Bond or an Environmental Pollution, Impairment and Clean-Up Liability Insurance.

SEC. 3. *Pre-requisite for the Issuance of Environmental Compliance Certificate or Certificate of Non-coverage.* – Owners and operators of environmentally-critical businesses shall not be issued an Environmental Compliance Certificate or Certificate of Non-coverage by the DENR without first obtaining the Mandatory Environment Insurance Coverage required by this Act.

SEC. 4. *Environmental Risk Inspector.* – During the insurance coverage period, an environmental risk inspector from the DENR shall conduct quarterly, bi-annual or annual visits to the business firm's project to evaluate and recommend measures to prevent environmental disasters.

SEC. 5. *Beneficiaries.* – The beneficiaries of the Mandatory Environment Insurance Coverage include affected communities, stakeholders and local government units within the projects' primary impact areas. Beneficiaries also include government departments, bureaus and agencies which are tasked under law

to undertake the rehabilitation, clean-up and monitoring of the projects affected by the pollution event for which no responsible private or public entity is specified.

The beneficiaries shall be represented by the government, particularly the DENR, which shall identify the affected areas and prescribe rehabilitation or remediation measures.

SEC. 6. *Payment of Claims.* – The insurance company shall place all payments of claims into special escrow accounts in government depository banks which shall in turn disburse corresponding payments to beneficiaries only upon the advice of the Environmental Management Bureau of the DENR (EMB-DENR) after proper documentation.

The EMB-DENR may create a multi-sectoral body composed of representatives from the business, labor, government, civil society and other stakeholders to assure that claims are verified and rightful parties are compensated and the environment is properly rehabilitated, cleaned-up, remediated, stabilized and protected.

The EMB-DENR shall not receive and handle payments of claims for environmental damages, penalties and charges, except for the claim component which properly accrues to it as an insurance beneficiary.

The government agency tasked with rehabilitation and beneficiary of the Mandatory Environmental Insurance Coverage as provided under Section 5 of this

Act shall undertake the same with funds coming from the insurance claim upon recommendation of the EMB-DENR or the multi-sectoral body created by EMB-DENR and approved by the Secretary of Environment and Natural Resources.

SEC. 7. ***Penalties.*** – The failure of the owner and operator of environmentally-critical businesses to take out Mandatory Environment Insurance Coverage in violation of this Act shall be punished with a fine of five hundred thousand pesos (P500,000.00) but not more than two million pesos (P2,000,000.00) or imprisonment of not less than six (6) years but not more than twelve (12) years, or both, at the discretion of the court.

In the case of a partnership, association, corporation or any juridical entity, the fine shall be imposed upon the president, treasurer or any other officer or person responsible for the violation.

If the offender is a foreigner, the offender shall be deported immediately without further proceedings in the Bureau of Immigration after the service of sentence.

Government officials, employees and agents who shall approve the issuance of certificates to owners or operators of environmentally-critical businesses without the necessary Mandatory Environmental Insurance Coverage, in violation of this Act, shall suffer the penalty of suspension of not less than thirty (30) days

but not more than six (6) months after due notice and hearing in the appropriate administrative proceedings.

SEC. 8. *Implementing Rules and Regulations.* – Within sixty (60) days from the approval of this Act, the Secretary of Environment and Natural Resources shall, in coordination with the Commissioner of the Insurance Commission, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 9. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, and other issuances inconsistent with the provisions of this Act are repealed, amended or modified accordingly.

SEC. 10. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,