



Republic of the Philippines
HOUSE OF REPRESENTATIVES
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HOUSE BILL NO. 6156

Introduced by Representative Maria Lourdes Acosta-Alba

EXPLANATORY NOTE

The Philippines is one of the most mineral-rich countries in the world. The value of the country's mineral resources is estimated by the Mineral Development Council to be around US\$840 Billion. According to the Mines and Geosciences Bureau (MGB), the country's metallic mineral reserve is about 7.1 billion tons. However, the mining and quarrying sector constitutes the smallest contribution to the total industry, averaging 2.7 percent for the period 1998-2014. In fact, among the economic sectors or industries, mining and quarrying contributed the least to the total economy after forestry, averaging only about 0.9 percent to total GDP during the same period. As of the first quarter of 2015, according to Ibon Data Bank, the Philippine economy got only 3% of the entire income of the mining industry in the country. A huge 97% went to the US and China (<http://www.manilatimes.net/mining-chips-in-only-3-to-gdp-research-group/219466/>).

In 2010, mining grew by 12% led by copper and gold which grew by 27% to US\$ 1.87 billion from US\$ 1.47 billion in 2009. Mining contributed 4.3% to our total exports, a far cry from the 24% contribution it had in the 1970s. With metal prices surging, however, mining is on its way to recovering lost ground and making significant contributions to our Gross Domestic Product (GDP)(Mining Industry Statistics released by Mines and Geoscience Bureau, www.mgb.gov.ph).

Responsible mining channels foreign and domestic investments to the countryside, providing access to a) employment and business opportunities, b) education, c) medical services d) skills training

e) housing, f) infrastructure and g) public utilities and generally improving the standard of living of poverty-stricken people, who in all probability, would never have the opportunity of improving their standard of living. National and local taxes, fees and imposts are likewise paid to the Government, thereby enhancing the delivery of basic public services. The country's agriculture, industry and service sectors can benefit from mineral products in construction power, electronics, machinery and transport.

Mining is a capital-intensive undertaking and a well-planned exploration and a well-engineered and systematic development and utilization of our mineral reserves require that the deficiencies and limitations of our existing laws be addressed. A well-regulated mining industry is therefore needed to allow mining to substantially increase its contribution to the national economy while protecting the environment at the same time.

The Mines and Geosciences Bureau (MGB) was originally established as the Bureau of Mines on November 16, 1936 by Commonwealth Act No. 136 and later amended under Presidential Decree No. 1281 on January 16, 1978 and Executive Order No. 192 dated June 10, 1987. Under Executive Order No. 192, the powers and functions of the MGB were advisory in nature and this has remained the same despite the conversion of the MGB from a staff bureau to a line bureau of the Department of Environment and Natural Resources (DENR) under Republic Act No. 7942.

The same Executive Order creating the Department of Environment and Natural Resources does not also provide for any professional or academic qualification standards for the Secretary and Assistant Secretary of the MGB.

There is therefore a need not only for a new mining law but for a Cabinet-level Government agency that can serve as a potent and effective arm in the administration and supervision of our mineral resources which is responsive to the needs of the Filipino people.

In view thereof, passage of this bill is urgently sought.


MARIA LOURDES ACOSTA-ALBA

1 conservation of mineral resources in partnership with the private sector in a
2 manner that safeguards the environment and protects the rights of affected
3 communities. The government adheres to the principle of sustainable
4 development which aims to meet the needs of the present without
5 compromising the ability of the future generations to meet their own needs,
6 with the view of improving the total quality of life, both now and in the future.

7 Mineral resource exploration, development, utilization and
8 conservation must lead to sustainable wealth creation and an improved quality
9 of life for impacted communities under the following terms:

10 a) Mining is a temporary land use which, when done responsibly,
11 leads to alternative land uses in the post-mining stage, through progressive
12 and engineered mine rehabilitation work done in cycle with mining
13 operations;

14 b) Mining activities must always be guided by current best
15 practices in environmental management committed to reduce the impacts of
16 mining and effectively and efficiently protect the environment;

17 c) The wealth accruing to the government and communities as a
18 result of mining must also lead to other wealth-generating opportunities for
19 people and to other environment-responsible endeavors;

20 d) Mining activities shall be undertaken with due and equal
21 emphasis on economic and environmental considerations, as well as health,
22 safety, social and cultural concerns;

1 e) Conservation of minerals is effected not only through recycling
2 of mineral-based products to lengthen the usable life of mineral commodities
3 but also through the technological efficiency of mining operations;

4 f) Investments in commercial mining activities from both
5 domestic and international sources shall be promoted in accordance with State
6 policies and the principles and objectives of this Act; and

7 g) The grant of mining rights shall harmonize existing activities,
8 policies and programs of the government that promote self-reliance,
9 development and resource management. Activities, policies and programs that
10 promote community-based and community-oriented development shall be
11 encouraged, consistent with the principles of people empowerment and grass-
12 roots development.

13 SEC. 3. *Definition of Terms.* – As used in this Act:

14 a) *Ancestral domains* refer to all areas generally belonging to
15 indigenous cultural communities (ICCs) or indigenous peoples (IPs)
16 comprising lands, inland waters, coastal areas and natural resources therein,
17 held under a claim of ownership, occupied or possessed by ICCs or IPs, by
18 themselves or through their ancestors, communally or individually since time
19 immemorial, continuously to the present except when interrupted by war,
20 force majeure or displacement by force, deceit, stealth or as a consequence of
21 government projects or any other voluntary dealings entered into by
22 government and private individuals or corporations, and which are necessary

1 to ensure their economic, social and cultural welfare. Ancestral domains
2 include ancestral lands, forests, pasture, residential, agricultural, and other
3 lands individually owned whether alienable and disposable, hunting grounds,
4 burial grounds, areas of worship, bodies of water, mineral and other natural
5 resources and lands which may no longer be exclusively occupied by ICCs or
6 IPs but from which they traditionally and historically had access to for their
7 subsistence and traditional activities, particularly the home ranges of ICCs or
8 IPs who are still nomadic or shifting cultivators;

9 b) *Ancestral lands* refer to all lands exclusively and actually
10 possessed, occupied or utilized by ICCs by themselves or through their
11 ancestors in accordance with their customs and traditions since time
12 immemorial and as may be defined and delineated by law;

13 c) *Beneficiation* refers to a process wherein a large fraction of the
14 waste material is removed from the mineral ore;

15 d) *Block or meridional block* refers to an area, bounded by one-half
16 (1/2) minute of latitude and one-half (1/2) minute of longitude, containing
17 approximately eighty-one (81) hectares;

18 e) *Consent* refers to the free, prior and informed assent of the
19 relevant persons, ICCs or IPs, barangay assemblies, landowners, occupants or
20 possessors, given after fully disclosing the intent and scope, including the
21 positive and negative impacts of the mining activity in a language and
22 process understandable to the persons, communities or assemblies;

- 1 f) *Contiguous zone* refers to the water, sea bottom and substratum
2 measured twenty-four (24) nautical miles seaward from the baseline of the
3 Philippine archipelago;
- 4 g) *Contract area* refers to the land or body of water delineated
5 under a mineral agreement or financial or technical assessment agreement
6 subject to the relinquishment obligations of the contractor and properly
7 defined by longitude and latitude;
- 8 h) *Contractor* refers to a qualified person acting alone or in
9 consortium;
- 10 i) *Development* refers to the work undertaken to explore and
11 prepare an ore body or a mineral deposit for mining, including the
12 construction of necessary infrastructure and related facilities;
- 13 j) *Environmental Impact Assessment (EIA)* refers to the process of
14 predicting the environmental consequences of projects or undertakings and
15 designing appropriate preventive, mitigating and enhancement measures;
- 16 k) *Exclusive economic zone* refers to the water, sea bottom and
17 subsurface measured from the baseline of the Philippine archipelago
18 up to two hundred (200) nautical miles offshore;
- 19 l) *Exploration* refers to the act of searching or prospecting for
20 mineral resources by geological, geochemical or geophysical surveys, remote
21 sensing, test pitting, trenching, drilling, shaft sinking, tunnelling or any other

1 means for the purpose of determining their existence, extent, quality and
2 quantity and the feasibility of mining them for profit;

3 m) *Foreign-owned corporation* refers to a corporation, partnership,
4 association or cooperative duly registered in accordance with law in which
5 less than fifty percent (50%) of the capital is owned by Filipino citizens;

6 n) *Free, prior and informed consent* refers to the consensus of all
7 members of the ICCs or IPs to be determined in accordance with their
8 respective customary laws and practices, free from any external
9 manipulation, interference, coercion and other analogous acts and obtained
10 after fully disclosing the intent and scope, including the positive and negative
11 impacts, of all the activities, in a language and process understandable and
12 acceptable to the community;

13 o) *Joint venture agreement* refers to a contract wherein the
14 government and a qualified person organize a joint-venture company, with
15 both parties having equity shares, to develop and manage mineral resources
16 and the government is entitled to a share in the output computed at a certain
17 percentage mutually agreed upon by and beneficial to both parties;

18 p) *Mill tailings* refer to materials, whether solid or liquid or both,
19 segregated from the ores during concentration or milling operations which
20 have no present economic value to the generator of the same;

- 1 q) *Mine waste* refers to the soil or rock materials from surface or
2 underground mining operations with no present economic value to the
3 generator of the same;
- 4 r) *Mineral agreement* refers to a contract between the government
5 and a contractor involving mineral production sharing agreement, co-
6 production agreement or joint venture agreement;
- 7 s) *Mineral processing* refers to the milling, beneficiation,
8 leaching, smelting, cyanidation, calcination or upgrading of ores, minerals,
9 rocks, mill tailings, mine waste or other metallurgical by-products or by
10 similar means to convert the same into marketable products;
- 11 t) *Mineral products* refer to the materials derived from ores,
12 minerals or rocks and prepared into a marketable state by mineral processing;
- 13 u) *Mineral reservations* refer to areas established and proclaimed
14 by the President upon the recommendation of the Secretary of Mineral
15 Resources, including all submerged lands within the contiguous zone and
16 exclusive economic zone;
- 17 v) *Mineral resources* refer to any concentration of ores, minerals or
18 rocks with proven or potential economic value;
- 19 w) *Minerals* refer to all naturally occurring inorganic substances in
20 solid, liquid, gas or any intermediate state excluding energy materials such as
21 coal, petroleum, natural gas, radioactive materials and geothermal energy;

1 x) *Mining area* refers to the portion of the contract area identified
2 by the contractor as defined and delineated in a survey plan duly approved by
3 the Regional Director of the Department of Mineral Resources having
4 jurisdiction over the area for purposes of development or utilization, and sites
5 for support facilities;

6 y) *Mining operations* refer to the mining activities involving
7 exploration, feasibility study, development and utilization;

8 z) *Mining right* refers to the right to explore, develop or utilize
9 mineral resources;

10 aa) *National industrialization* refers to the primacy of mineral
11 production, processing and distribution for the benefit of the domestic
12 economy which includes creating favorable conditions for Filipino
13 entrepreneurs to engage in mining through various state-private agreements
14 that ensure that mining helps spur more domestic investments, increase
15 agricultural production and produce both consumer and producer goods and
16 manufactures;

17 bb) *Non-metallic mineral* refers to a mineral usually having a dull
18 luster, generally light-colored, transmitting light and usually giving either
19 colorless or light-colored streak from which a non-metallic element or
20 component may be extracted or utilized for a profit;

- 1 cc) *Offshore* refers to the water, sea bottom and subsurface from the
2 shore or coastline reckoned from the mean low tide level up to the two
3 hundred (200) nautical miles of the exclusive economic zone;
- 4 dd) *Onshore* refers to the landward side from the mean low tide
5 level, including submerged lands in lakes, rivers and creeks;
- 6 ee) *Ore* refers to the naturally occurring substance or material from
7 which a mineral or an element is mined or processed or both for profit;
- 8 ff) *Permittee* means the holder of an exploration permit;
- 9 gg) *Pollution* refers to any alteration of the physical, chemical or
10 biological properties of any water, air or land resources of the Philippines; or
11 any discharge thereto of any liquid, gaseous or solid wastes; or any
12 production of unnecessary noise or any emission of objectionable odor, as
13 will or is likely to create or to render such water, air and land resources
14 harmful, detrimental or injurious to public health, safety or welfare, or which
15 will adversely affect their utilization for domestic, commercial, industrial,
16 agricultural, recreational or other legitimate purposes;
- 17 hh) *Processing* includes all treatment that an ore receives after its
18 extraction and beneficiation, which involves changes in the chemical nature
19 of the mined minerals;
- 20 ii) *Protected areas* refer to identified portions of land and water set
21 aside by reason of their unique physical and biological significance, managed

1 to enhance biological diversity and protected against destructive human
2 exploitation;

3 jj) *Qualified person* refers to any Filipino citizen of legal age and
4 with capacity to contract or a corporation, partnership, association or
5 cooperative organized or authorized for the purpose of engaging in mining,
6 with technical and financial capability to undertake mineral resources
7 development and duly registered in accordance with law, at least sixty
8 percent (60%) of the capital of which is owned by Filipino citizens. A legally
9 organized foreign-owned corporation is deemed a qualified person for
10 purposes of granting an exploration permit, financial or technical assistance
11 agreements or mineral processing permit only;

12 kk) *Quarrying* refers to the process of extracting, removing and
13 disposing quarry resources found on or underneath the surface of public or
14 private land; and

15 ll) *Rehabilitation* refers to the process by which the land is
16 returned to a form and productivity in conformity with a prior land-use plan,
17 including a stable ecological state that does not contribute substantially to
18 environmental deterioration and is consistent with surrounding aesthetic
19 values.

20 SEC. 4. *National Industrialization Program.* – The State shall
21 formulate a National Industrialization Program pursuant to the principles of
22 agricultural modernization, development of industrial and manufacturing

1 industries, and rational, sustainable and equitable development of the national
2 economy. The State shall implement a Mineral Management Plan that
3 provides the framework for the utilization and management of the country's
4 mineral resources, which addresses the needs of the domestic economy and
5 upholds the rights of industry workers, indigenous peoples and local
6 communities.

7 CHAPTER II

8 DEPARTMENT OF MINERAL RESOURCES

9
10 SEC. 5. *Department of Mineral Resources.* – There is hereby created
11 a Department of Mineral Resources, hereinafter referred to as the
12 Department, which shall be the primary government agency responsible for
13 the conservation, management, development and proper use of the country's
14 mineral resources, as well as the licensing, permitting and regulation thereof.
15 The Department absorbs the powers and functions of the Mines and
16 Geosciences Bureau under the Department of Environment and Natural
17 Resources.

18 SEC. 6. *Powers and Functions.* – The Department shall have the
19 following powers and functions:

20 a) Exercise jurisdiction and take direct charge of the administration
21 and disposition of all mineral lands and mineral resources of the country,
22 ensuring their effective protection, development and management;

- 1 b) Grant mineral agreements or other mining permits to duly
2 qualified persons;
- 3 c) Recommend to the President of the Philippines the approval of
4 financial or technical assistance agreements;
- 5 d) Regulate and supervise the operations of all contractors and
6 permittees, including mineral processing permit holders;
- 7 e) Formulate policies, regulations and programs pertaining to the
8 mineral reserves and resources of the country, both onshore and offshore;
- 9 f) Develop technical standards and safety and operating procedures
10 for mineral resources and reserves and their exploration, development and
11 utilization which are not in conflict with the practice of mining engineering,
12 metallurgical engineering and geology as provided for under the professional
13 laws;
- 14 g) Issue subpoena and summon witnesses to appear in any
15 proceedings pending before the Secretary of Mineral Resources, and in
16 appropriate cases, hold witnesses for contempt, direct or indirect, in
17 accordance with pertinent provisions of the Rules of Court;
- 18 h) Impose fines and penalties for violation of the provisions of the
19 mining law or any other laws being implemented by the Department, its rules
20 and regulations;

- 1 i) Confiscate surety, performance and guaranty bonds posted with
2 the Department after due notice and hearing in an order promulgated by the
3 Secretary of Mineral Resources;
- 4 j) Deputize, when necessary, any member or unit of the Philippine
5 National Police for purposes of implementing the mining law;
- 6 k) Require contractors or holders of an exploration, as part of their
7 mining activities, to keep in their office a complete set of books of accounts
8 showing all receipts and expenditures, the source of such receipts and the
9 object of such expenditures, and assign authorized representatives of the
10 Department to inspect such books of accounts;
- 11 l) Require contractors or permittees to submit to the Department a
12 semiannual report verified under oath containing:
- 13 i. An itemized account or balance sheet for the previous semester
14 embracing a full and complete statement of all disbursements and
15 receipts, showing from what sources such receipts were derived, and to
16 whom and for what object or purpose such disbursements or payments
17 were made;
- 18 ii. All indebtedness or liabilities incurred, or existing at the time,
19 and for what the same were incurred, and the balance of money, if any,
20 on hand;
- 21 iii. A statement showing the number of men employed, and for what
22 purpose and the rate of wages paid to each; a full and complete

1 statement of the work done in the mine, amount of ore extracted and
2 from what part of the mine taken, the amount sent to mill for
3 production, output of the mill and its assay value.

4 Every contractor or permittee shall likewise keep in its office a full
5 report, under oath, of all discoveries of ores made in the mine, whether by
6 boring, drifting, sinking or otherwise, together with the assay value thereof.

7 All discounts, reports and correspondences shall be filed with and shall be
8 subject to verification by the Secretary of Mineral Resources;

9 m) Conduct or undertake mining, metallurgical, geological,
10 chemical and other researches and prepare reports thereon and provide
11 laboratory and technical services to the general public;

12 n) Conduct geological and geophysical surveys of the Philippines
13 and its territorial waters, and prepare reports and maps therefor;

14 o) Conduct surveys of all mineralized areas, and inventory of
15 mineral resources of the Philippines and prepare reports, boundary plans and
16 maps therefor;

17 p) Disseminate information on the administration and disposition
18 of mineral lands, mining operations, utilization of minerals, mineral
19 economics, geological and other surveys, researches and other activities
20 through appropriate reports, bulletins and circulars;

21 q) Oversee the mining operations of contractors particularly on
22 mining practices and methods relating to protection of life and property,

1 economy of operations, prevention of pollution, environmental protection and
2 mineral conservation, and order the suspension of any or all mining
3 operations or closure of the mines, if warranted;

4 r) Require the contractor or permittee to take necessary measures
5 to provide for the growth and development of any industry suitable for the
6 contract area, other than mining, in order that when the mine is exhausted or
7 becomes no longer profitable for mining purposes, the people residing therein
8 or those who used to work for the mine will have a substitute industry or
9 business activity to provide for their means of livelihood and place the mine
10 in a condition suitable for habitation or agriculture;

11 s) Keep records of mining agreements, licenses, and all other
12 documents and instrument related thereto;

13 t) Engage, if warranted, in mineral canvassing, exploration,
14 development and mining of mineral resources, whether found in mineral
15 reservations, in registered mining claims or in private or public lands:

16 u) Exercise complete management and control over areas embraced
17 by mineral reservations;

18 v) Cancel or recommend the cancellation of mining rights, mining
19 applications and mining claims for non-compliance with pertinent laws rules
20 and regulations; and

21 w) Formulate such rules and regulations as may be necessary for
22 the effective implementation of this Act.

SEC. 7. *Regional Offices.* – The Department may establish regional offices in the country as may be deemed necessary by the Secretary.

CHAPTER III

DEPARTMENT PROPER

SEC. 8. *Composition.* — The Department is composed of the Office of the Secretary, the offices of the undersecretaries and assistant secretaries and bureaus.

SEC. 9. *Secretary.* – The Department is headed by the Secretary of Mineral Resources, hereinafter referred to as Secretary, who shall be appointed by the President of the Philippines, subject to confirmation by the Commission on Appointments.

No officer, external auditor, accountant or legal counsel of any private company or enterprise primarily engaged in mining and quarrying shall be eligible for appointment as Secretary within five (5) years from the date of retirement, resignation or separation.

SEC. 10. *Powers and Functions of the Secretary.* – In addition to those provided under Section 7, Chapter 2, Book IV of Executive Order No 292, Administrative Code of 1987, the Secretary shall have the following powers and functions;

a) Establish policies and standards for the effective, efficient and economical operation of the Department in accordance with the programs of the government;

b) Exercise direct supervision and control over all functions and activities of the Department, as well as its officers and personnel;

c) Devise a program of international information on the technological and contractual conditions of the mining industry;

d) Create regional offices and such other service units and divisions as may be necessary; and

e) Perform such other functions as may be necessary or proper to attain the objectives of this Act.

SEC. 11. *Undersecretaries.* – The Secretary shall be assisted by three (3) Undersecretaries, one for operations, one for policy and programs, and one for administrative services. They shall all be appointed by the President of the Philippines upon the recommendation of the Secretary. The Undersecretaries shall have the powers and functions as provided for in Section 10, Chapter 2, Book IV of the Administrative Code of 1987.

The Office of the Undersecretaries shall consist of the Undersecretaries and their immediate staff.

SEC. 12. *Assistant Secretaries.* – There shall be five (5) Assistant Secretaries who shall head the five (5) bureaus of the Department as provided for under Section 15 of this Act. They shall all be appointed by the President of the Philippines, upon recommendation of the Secretary.

SEC. 13. *Qualifications.* – No person shall be appointed Secretary, Undersecretary for Operations or Assistant Secretary of the Bureau of Mining

1 Regulations unless such person is a natural-born citizen of the Philippines, at
2 least forty (40) years of age, a holder of a Bachelor of Science in Mining
3 Engineering degree from any reputable university or college, a registered
4 mining engineer, a resident of the Philippines for the last ten (10) years, of
5 good moral character and of proven competence in any field of mining.

6 No person shall be appointed Undersecretary for Policy and Programs,
7 Undersecretary for Administrative Services or assistant secretary unless such
8 person is a natural-born citizen of the Philippines, at least thirty-five (35)
9 years of age, a resident of the Philippines for the last five (5) years, of good
10 moral character and a person with proven competence in the field of mining,
11 metallurgical technology and geology.

12 The Assistant Secretary for the Bureau of Mining Technology must be
13 a registered mining engineer. The Assistant Secretary for the Bureau of
14 Geological Survey must be a registered geologist and the Assistant Secretary
15 for the Bureau of Metallurgical Technology must be a registered
16 metallurgical engineer. The Assistant Secretary for the Bureau of Mineral
17 Economics must be knowledgeable in mining, metallurgy, geology, law,
18 management and economics.

19 No person who has publicly displayed hostility to mining shall be
20 appointed to any position in the Department, its bureaus and attached
21 agencies and corporations, including their subsidiaries.

1 SEC. 14. **Bureaus.** – The Department shall have the following bureaus
2 with their respective powers and functions:

3 a) ***Bureau of Mining Regulations***

4 1) Assist the Department, through the Undersecretary for
5 Operations, in the administration and disposition of all mineral lands
6 and mineral resources of the country;

7 2) Recommend to the Secretary, through the Undersecretary
8 for Operations, the grant of mineral agreements or other mining
9 permits, except mineral processing permits, to duly qualified persons;

10 3) Recommend to the Secretary, through the Undersecretary
11 for Operations, the approval of financial or technical assistance
12 agreements;

13 4) Assist the Department, through the Undersecretary for
14 Operations, in the regulation and supervision of the operations of all
15 contractors and permittees, except those of mineral processing permit
16 holders;

17 5) Assist the Department in exercising complete
18 management and control over areas bound by mineral reservations;

19 6) Assist the Department, through the Undersecretary for
20 Operations, in the formulation of policies, regulations and programs
21 pertaining to the mineral reserves and resources of the country, both
22 onshore and offshore. Such policies, regulations and programs must

not conflict with the practice of mining engineering, metallurgical engineering and geology, as provided for by the professional laws;

7) Assist in the formulation and implementation of policies to develop the mineral reserves of the country;

8) Assist in the formulation of sectoral plans and programs relative to the exploration, development and utilization of mineral and reserves;

9) Provide consultative training and advisory services to practitioners and institutions in the areas of regulated activities; and

10) Assist in the formulation of such rules and regulations as may be necessary for the effective implementation of this Act.

b) ***Bureau of Mining Technology***

1) Assist the Department in overseeing the mining operations of contractors or permittees particularly on mining practices and methods relating to protection of life and property, economy of operations, prevention of pollution, environmental protection and mineral conservation and social development;

2) Assist the Department in ensuring that contractors or permittees take necessary measures to provide for the growth and development of any industry suitable for the contract area, other than mining, in order that when the mine is exhausted or becomes

1 unprofitable for mining purposes the people residing therein or
2 those who used to work for the mine may have a substitute industry
3 or business activity to provide for their means of livelihood, and to
4 rehabilitate the mine in a condition suitable for habitation or
5 agriculture;

6 3) Assist the Department in enforcing rules and regulations
7 on environmental protection and enhancement, social development,
8 mineral conservation and mine safety;

9 4) Assist the Department in verifying every contractor or
10 permittee's full report, under oath, of all discoveries of ores made in
11 their mines, whether by boring, drifting, sinking or otherwise, together
12 with the assay value thereof;

13 5) Develop technical standards, safety and operating
14 procedures for mineral resources and reserves exploration,
15 development and utilization, provided that such standards and
16 procedures do not conflict with the practice of mining engineering,
17 metallurgical engineering and geology as provided for by the
18 professional laws;

19 6) Conduct research on mine safety and technology; and

1 7) Assist in the formulation of such rules and regulations as
2 may be necessary for the effective implementation of this Act.

3 c) ***Bureau of Metallurgical Technology***

4 1) Assist the Department in the issuance of mineral
5 processing permits;

6 2) Assist the Department in the regulation and supervision of
7 the operations of all mineral processing permit holders;

8 3) Conduct or undertake metallurgical, chemical and similar
9 researches and prepare reports thereon; and provide laboratory
10 services to the general public;

11 4) Develop technical standards, safety and operating
12 procedures for mineral processing and metallurgical operations. Such
13 standards and procedures must not be in conflict with the practice of
14 the metallurgical engineering, mining engineering and geology as
15 provided for by professional laws; and

16 5) Assist in the formulation of such rules and regulations as
17 may be necessary for the effective implementation of this Act.

18 d) ***Bureau of Geological Survey***

19 1) Conduct geological and geophysical surveys of the
20 Philippines and its territorial waters, and prepare reports and maps
21 therefor;

22 2) Prepare geo-hazard maps for the entire country;

1 3) Engage, if warranted, in mineral canvassing, exploration,
2 development and mining of the mineral resources of the country,
3 whether found in mineral reservations, in registered mining claims or
4 in private or public lands;

5 4) Conduct other kinds of surveys of all mineralized areas,
6 and inventory of the mineral resources of the Philippines and prepare
7 reports, boundary plans and maps therefor;

8 5) Develop technical standards, safety and operating
9 procedures for mineral processing and metallurgical operations,
10 provided that such standards and procedures do not conflict with the
11 practice of the geology, mining engineering and metallurgical
12 engineering as provided for by the professional laws; and

13 6) Assist in the formulation of such rules and regulations as
14 may be necessary for the effective implementation of this Act.

15 e) ***Bureau of Mineral Economics***

16 1) Disseminate information concerning the administration
17 and disposition of mineral lands, mining operations, utilization of
18 minerals, mineral economics, other surveys and researches and such
19 other activities through appropriate reports, bulletins and circulars;

20 2) Require contractors or permittees, including mineral
21 processing permit holders, as part of their mining and processing
22 activities, to keep in their offices a complete set of books of accounts

1 showing all receipts and expenditures, the source of such receipts, and
2 the object of such expenditures, and assign authorized representatives
3 of the Department to inspect such books of accounts; and

4 3) Assist in the formulation of such rules and regulations as
5 may be necessary for the effective implementation of this Act.

6 CHAPTER IV

7 ATTACHED AGENCIES AND CORPORATIONS

8 SEC. 15. All government agencies and corporations, whether created
9 by law or registered with the Securities and Exchange Commission, that are
10 involved in mining are transferred to the Department of Mineral Resources.

11 The Secretary, in a concurrent capacity, shall be the *ex-officio* chairperson of
12 these agencies and corporations. The Secretary shall, in no case, be the chief
13 executive officer or chief operating officer of these agencies and corporations
14 or their subsidiaries, any law to the contrary notwithstanding.

15 The Secretary may recommend to the President the reorganization of
16 these agencies and corporations.

17 CHAPTER V

18 MINERAL LANDS AND MINERAL DEPOSITS

19 SEC. 16. *Ownership of Mineral Deposits.* – All mineral deposits in
20 public or private land, including those in ancestral domains and ancestral
21 lands within the territorial limits of the Republic of the Philippines whether
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1 found in, on or under the surface of dry lands, beds of creeks, rivers, lakes or
2 other submerged lands within the territorial waters or on the continental or
3 insular shelf or its analogue in an archipelago seaward the shores of the
4 Philippines, belong to the State, inalienably and imprescriptively, and the
5 administration, disposition and utilization thereof is governed by this Act and
6 its rules and regulations and other mining laws. Minerals may not be the
7 subject of acquisitive prescription.

8 SEC. 17. *Minerals Deposits in Public or Private Lands.* – The
9 ownership or the right to use public or private land, ancestral domains and
10 ancestral lands, whether exposed or submerged, for agricultural, logging,
11 industrial, commercial, residential, petroleum exploration or utilization or
12 any purpose other than mining does not include the ownership of nor the
13 right to develop or utilize the mineral deposits found in, on or under the
14 surface of such lands. Subject to any existing rights or reservations, all
15 mineral deposits founded therein including timber or forestland as defined in
16 existing laws may be open to mineral agreements or financial or technical
17 assistance agreements.

18 CHAPTER VI

19 MINERAL RESERVATIONS

20 SEC. 18. *Mineral Reservations.* – The President, when the national
21 interest so requires, such as when there is a need to preserve strategic raw
22 materials critical to the national interest, national defense or development of

1 certain minerals for scientific, cultural or ecological value, upon the
2 recommendation of the Secretary, may establish mineral reservations,
3 without prejudice to existing prior rights. All submerged lands within the
4 contiguous zone and the exclusive economic zone are hereby declared
5 mineral reservations. Mining operations within mineral reservations may be
6 undertaken by the Department or by private contractors. The President may
7 alter or modify the boundaries of any mineral reservation as the President
8 may deem proper or revert the same to the public domain.

9 SEC. 19. *Maximum Area of Mineral Reservations.* – The total area
10 of mineral reservations onshore that the President may proclaim shall not
11 exceed three million (3,000,000) hectares at any given time except during
12 times of national emergency officially declared by the President. In case of
13 national emergency, the President may proclaim such mineral reservations
14 without any limit as to the total area.

15 SEC. 20. *Other Reservations.* – Exploration, development or mining
16 operations in reservations other than mineral reservations may be undertaken
17 by the Department or through a qualified person selected through competitive
18 bidding under such terms and conditions as may be prescribed by the
19 Secretary, subject to the approval of the President.

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CHAPTER VII

MANAGEMENT OF MINING AREAS

SEC. 21. *Processing of Applications.* – The system of processing applications for mining rights are prescribed in the rules and regulations implemented pursuant to this Act.

SEC. 22. *Survey, Charting and Delineation of Mining Areas.* – A sketch plan or map of the contract or mining area suitable for publication purposes and prepared by a geodetic engineer duly deputized by the Department shall be required during the filing of a mineral, financial or technical assistance agreement. After all clearances have been granted, the contract or mining area shall be surveyed and monumented by a deputized geodetic engineer and the survey plan shall be approved by the Secretary or by a duly authorized representative of the Secretary before the mineral agreement or financial or technical assistance agreement is approved.

SEC. 23. *Meridional Blocks.* – For purposes of delineation of the contract or mining areas under this Act, the Philippine territory and its exclusive economic zone are divided into meridional blocks of one-half minute (1/2) latitude and one-half minute (1/2) longitude.

SEC. 24. *Recording System.* – There shall be established a national and regional titling and recording system. A mineral resource database system shall be set up by the Department which includes, among others, a mineral rights management system. The Department shall publish, at least

1 annually, a mineral gazette of nationwide circulation containing, among
2 others, a current list of mineral rights, their locations in the map, mining rules
3 and regulations and other official acts affecting mining and other information
4 relevant to mineral resources development.

5 SEC. 25. *Areas Open to Mining Operations.* – Subject to existing
6 rights or reservations or prior agreements, all mineral resources in public or
7 private lands, ancestral domains, ancestral lands, including timber or
8 forestland as defined by law shall be open to mineral agreement or financial
9 or technical assistance agreement applications.

10 In ancestral domains or lands, consent of the ICCs shall be secured by
11 the applicant before any mineral agreement or financial or technical
12 assistance agreement is approved.

13 SEC. 26. *Areas Closed to Mining Applications.* – Mineral agreement
14 or financial or technical assistance agreement applications are not allowed in
15 the following areas:

16 a) In military or other government reservations except upon prior
17 clearance of the appropriate government agency;

18 b) Near or under public or private buildings, cemeteries,
19 archaeological and historic sites, bridges, highways, waterways, railroads,
20 reservoirs, dams or other infrastructure projects, public or private works,
21 including plantations and areas with valuable crops, except upon written
22 consent of the appropriate government agency or private entity;

1 shares in the gross output. The contractor provides the financing, technology,
2 management and personnel necessary for the implementation of the
3 agreement.

4 b) Co-production Agreement. - An agreement between the
5 government and the contractor wherein the government provides inputs to the
6 mining operations other than the mineral deposit. The government earns a
7 rate of return on its inputs and shares in the gross output.

8 c) Joint Venture Agreement. - An agreement where a joint venture
9 company is organized by the government and the contractor with both parties
10 having equity shares. Aside from earnings in equity, the government also
11 shares in the gross output.

12 A mineral agreement grants the contractor the exclusive right to
13 conduct exploration, development and mining operations in the contract area
14 except in those areas within rivers, streams, creeks, lakes and other bodies of
15 water in which a separate sand and gravel permit or mineral agreement must
16 be secured. The contractor may be allowed to convert the agreement into any
17 of the modes of mineral agreements, financial or technical assistance
18 agreements covering the remaining period of the original agreement subject
19 to the approval of the Secretary.

20 SEC. 28. *Maximum Areas for Mineral Agreement.* – The maximum
21 area that a qualified person may apply for and hold at any given time under a
22 mineral agreement is as follows:

- 1 a) Onshore, in the entire Philippines –
- 2 1) For individuals – six (6) meridional blocks or four
- 3 hundred eighty six (486) hectares; and
- 4 2) For corporations and partnerships - sixty (60)
- 5 meridional blocks or four thousand eight hundred sixty (4,860)
- 6 hectares;
- 7 b) Offshore, in the entire Philippines, including the exclusive
- 8 economic zone –
- 9 1) For individuals – twelve (12) meridional blocks or nine
- 10 hundred seventy-two (972) hectares; and
- 11 2) For corporations and partnerships – one hundred twenty
- 12 (120) meridional blocks or nine thousand seven hundred twenty
- 13 (9,720) hectares.

14 The maximum areas that may be applied for as stated in paragraphs (a)

15 and (b) of this Section include contract areas covered by operating

16 agreements or other forms of contracts with other parties covering

17 exploration, development and mining operations and existing mineral

18 agreement applications.

19 SEC. 29. *Mineral Agreements.* – All proposed mineral agreements are

20 filed in the region where the subject minerals areas are located, except in

21 mineral reservations which are filed with the Department. The proposed

22 mineral agreement is subject to the approval of the Secretary.

1 SEC. 30. *Assignment or Transfer.* – Except for financial or technical
2 assistance agreement, any assignment or transfer of rights and obligations
3 under the mineral agreement or permit shall be subject to approval of the
4 Secretary. The assignment or transfer is deemed automatically approved if
5 not acted upon by the Secretary or the duly authorized representative within
6 thirty (30) days from receipt thereof unless patently unconstitutional or
7 illegal.

8 No assignment or transfer shall be allowed unless the mineral
9 agreement or permit has been in existence for at least five (5) years. It may be
10 allowed if the assignee or transferee is a qualified person, has the technical
11 and financial capability to explore, develop or operate the mines and has also
12 been in existence for at least five (5) years. Subsequent assignments or
13 transfers may also be made only after five (5) years. The assignment may be
14 allowed if the contractor or transferee has not violated mining and
15 environmental laws and that proofs of payment of capital gains tax,
16 documentary stamps tax, transfer tax and other taxes have been submitted.

17 For purposes of computing the capital gains tax, documentary stamp
18 tax, transfer tax and other taxes, the mineral agreement shall be the subject of
19 a mine valuation by a private licensed mining engineer and a licensed mining
20 engineer of the Department. The higher of the two (2) valuations is the basis
21 for computing the taxes.

1 The application for a mineral agreement or permit is not eligible for
2 assignment or transfer.

3 SEC. 31. *Withdrawal from Mineral Agreements.* – The contractor
4 may, by giving due notice at any time during the term of the agreement,
5 apply for the cancellation of the mineral agreement due to causes which, in
6 the opinion of the contractor, the continued mining operation is no longer
7 feasible or viable. The Secretary shall consider the notice and issue a decision
8 within a period of thirty (30) days from receipt thereof: *Provided*, That the
9 contractor has complied with all its technical, financial and legal obligations.

10 SEC. 32. *Terms.* – Mineral agreements shall have a term not
11 exceeding twenty five (25) years starting from the date of execution thereof
12 and renewable for another term not exceeding twenty five (25) years subject
13 to changes that may be mutually agreed upon by the parties. After the
14 renewal period, the operation of the mine site may be undertaken by the
15 government or through a contractor. The contract for the operation of a mine
16 shall be awarded to the highest bidder in a public bidding after due
17 publication of the notice thereof. The contractor shall have the right to equal
18 the highest bid upon reimbursement of all reasonable expenses of the highest
19 bidder.

CHAPTER IX

FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT

SEC. 33. *Who may Apply.* – Any qualified person or foreign-owned corporation with technical and financial capability to undertake large-scale exploration, development and mining operation may enter into a financial or technical assistance agreement with the government except for the areas covered by rivers, streams, creeks, lakes and similar bodies of water. A qualified person, but not a foreign-owned corporation, may secure a separate sand and gravel permit or mineral agreement.

SEC. 34. *Maximum Contract Area.* – The maximum contract area that may be granted per qualified person or foreign-owned is as follows:

a) Onshore, in the entire Philippines – sixty (60) meridional blocks or four thousand eight hundred sixty (4,860) hectares; and

b) Offshore, in the entire Philippines, including the exclusive economic zone – one hundred twenty (120) meridional blocks or nine thousand seven hundred twenty (9,720) hectares.

The maximum areas that may be applied include contract areas covered by operating agreements or other forms of contracts with other parties covering exploration, development and mining operations and existing mineral agreement applications.

1 SEC. 35. *Terms and Conditions.* – The following terms, conditions
2 and warranties are incorporated in the financial or technical assistance
3 agreement:

4 a) A firm commitment in the form of a sworn statement of an
5 amount corresponding to the expenditure obligation that will be invested in
6 the contract area: *Provided*, That the amount shall be subject to changes as
7 may be provided for in the implementing rules and regulations of this Act;

8 b) A financial guarantee bond posted in favor of the government in
9 an amount equivalent to the expenditure obligation of the applicant for a
10 year;

11 c) Submission of proof of technical competence such as track
12 record in mineral resource exploration, development and mining operations,
13 details of technology to be employed in the proposed operation and details of
14 technical personnel to undertake the operation;

15 d) Representation and warranties that the applicant has all the
16 qualifications and none of the disqualifications for entering into the
17 agreement;

18 e) Representations and warranties that the contractor has access to
19 all the financing, managerial and technical expertise and if circumstances
20 demand, the technology required to promptly and effectively carry out the
21 objectives of the agreement with the undertaking to timely deploy these

1 resources under its supervision pursuant to the periodic work programs and
2 budgets when proper;

3 f) For foreign-owned corporation, representations and warranties
4 that, except for payments for disposition for its equity, foreign investments in
5 local enterprises which are qualified for repatriation and local suppliers'
6 credits and such other generally accepted and permissible financial schemes
7 for raising funds for valid business purposes. The contractor shall not raise
8 any form of financing from domestic sources of funds, whether in Philippine
9 or foreign currency for conducting its exploration, development or mining
10 operations;

11 g) Conduct of the mining operations in accordance with the
12 provisions of this Act and its implementing rules and regulations;

13 h) Work programs and minimum expenditures commitments.

14 i) Preferential use of local goods and services to the maximum
15 extent practicable;

16 j) A stipulation that the contractors are obligated to give preference
17 to Filipinos in all types of mining employment for which they are qualified
18 and that technology are transferred to them;

19 k) Provision to effectively use appropriate anti-pollution
20 technology and facilities to protect the environment and to restore or
21 rehabilitate mined-out areas affected by mine tailings and other forms of
22 pollution or destruction;

1 l) Provision to furnish the government, upon demand, all records
2 pertaining to its mining operations and to open its books of accounts for
3 inspection;

4 m) Provision to dispose of the minerals and by-products produced
5 under a financial or technical assistance agreement at the highest price and
6 more advantageous terms and conditions as may be provided for under the
7 implementing rules and regulations of this Act;

8 n) Provision for consultation and arbitration with respect to the
9 interpretation and implementation of the terms and conditions of the
10 agreement; and

11 o) Such other terms and conditions consistent with the Constitution
12 and with this Act as the Secretary may deem necessary for the best interest of
13 the State and for the welfare of the Filipino people.

14 SEC. 36. *Negotiations.* – A financial or technical assistance
15 agreement shall be negotiated by the Department and executed and approved
16 by the President. The President shall notify the Congress of all financial or
17 technical assistance agreements within thirty (30) days from their execution
18 and approval.

19 SEC. 37. *Technical Assistance Agreement Proposals.* – All financial
20 or technical assistance agreement proposals are filed with the Department
21 after payment of the required processing fees. If the proposal is found to be
22 sufficient and meritorious in form and substance, it shall be recorded by the

1 Department to give the proponent the prior right to the area covered by the
2 proposal. Existing mineral agreements, financial or technical assistance
3 agreements and other mining rights shall not be impaired or prejudiced
4 thereby. The Secretary shall recommend its approval to the President.

5 SEC. 38. *Term of Financial or Technical Assistance Agreement.* – A
6 financial or technical assistance agreement shall have a term not exceeding
7 twenty five (25) years starting from its execution and, renewable for not more
8 than twenty-five (25) years under such terms and conditions as may be
9 provided by law.

10 SEC. 39. *Conversion to Mineral Agreement.* – The contractor shall
11 have the option to convert the financial or technical assistance agreement to a
12 mineral agreement at any time during the term of the agreement, if the
13 economic viability of the area is found to be inadequate to justify large-scale
14 mining operations, after proper notice to the Secretary as may be provided for
15 under the implementing rules and regulations of this Act: *Provided*, That the
16 mineral agreement is only for the remaining period of the financial or
17 technical assistance agreement.

18 In case of a foreign-owned corporation, it shall reduce its foreign
19 equity to no more than forty percent (40%) of its capital. Upon compliance
20 with this requirement, the Secretary may approve the conversion and execute
21 the mineral agreement.

1 SEC. 40. *Assignment or Transfer.* – A financial or technical
2 assistance agreement may be assigned or transferred, in whole or in part, to a
3 qualified person or a foreign-owned corporation subject to the prior approval
4 of the President. The President shall notify Congress of every assigned or
5 converted financial or technical assistance agreement in accordance with this
6 provision within thirty (30) days from the date of approval thereof.

7 No assignment or transfer shall be allowed unless the financial or
8 technical assistance agreement has been in existence for at least ten (10)
9 years and the assignee or transferee is a qualified person or a foreign-owned
10 corporation, has the technical and financial capability to explore, develop or
11 operate the mines and has also been in existence for at least ten (10) years.
12 Subsequent assignments or transfers may be made only every ten (10) years
13 at a time. The assignment may be allowed if the contractor or transferee has
14 not violated mining and environmental laws and that proof of payment of
15 capital gains tax, documentary stamp tax, transfer tax and other taxes have
16 been submitted.

17 For purposes of computing the capital gains tax, documentary stamp
18 tax, transfer tax and other taxes, the financial or technical assistance
19 agreement is subject to mine valuation by a private licensed mining engineer
20 and a licensed mining engineer of the Department. The higher of the two (2)
21 valuations is the basis for computing the taxes.

1 The application for financial or technical assistance agreement is not
2 eligible for assignment or transfer.

3 SEC. 41. *Withdrawal from Financial or Technical Assistance*
4 *Agreement.* – The contractor shall manifest in writing to the Secretary its
5 intention to withdraw from the financial or technical assistance agreement if,
6 in its judgment, the mining project is no longer economically feasible even
7 after it has exerted reasonable diligence to remedy the cause of the situation.
8 The Secretary may accept the withdrawal: *Provided*, That the contractor has
9 complied with all technical, financial or legal obligations.

10 CHAPTER X

11 SAND AND GRAVEL RESOURCES

12 SEC. 42. *Sand and Gravel.* – Sand and gravel utilization are covered
13 by the following types of permits unless they contain valuable minerals such
14 as gold, chromite, iron and other metals in which case they shall be covered
15 by a mineral agreement.

16 SEC. 43. *Commercial Sand and Gravel Permit.* – A qualified person
17 may be granted a commercial sand and gravel permit by the Secretary or the
18 duly authorized representative to extract sand and gravel and other loose or
19 unconsolidated materials which are used in their natural state, without
20 undergoing processing from an area of not more than five (5) hectares and in
21 such quantities as may be specified in the permit.

1 SEC. 44. *Industrial Sand and Gravel Permit.* – A qualified person
2 may be granted an industrial sand and gravel permit by the Secretary or the
3 duly authorized representative to extract sand and gravel and other loose or
4 unconsolidated materials that necessitate the use of mechanical processing
5 covering an area of not more than twenty (20) hectares at a time. The permit
6 shall have a term of five (5) years, renewable for five (5) years but not to
7 exceed twenty-five (25) years.

8 SEC. 45. *Exclusive Sand and Gravel Permit.* – A qualified person
9 may be granted an exclusive sand and gravel permit by the Secretary or the
10 duly authorized representative to extract sand and gravel and other loose or
11 unconsolidated materials from public lands for use: *Provided*, That there is
12 no commercial disposition thereof.

13 A contractor under a mineral agreement, financial or technical
14 assistance agreement, may extract sand and gravel and other loose and
15 unconsolidated materials without a permit within its contract area for
16 exclusive use in the mining operations: *Provided*, That right is
17 coterminous with the term of the agreement.

18 Areas within rivers, streams, creeks, lakes and similar bodies of
19 water shall be covered by a separate sand and gravel permit.

20 SEC. 46. *Government Gratuitous Permit.* – Any government entity or
21 instrumentality may be granted a gratuitous permit by the Secretary or the
22 duly authorized representative to extract sand and gravel or loose and

1 unconsolidated materials needed in the construction of public buildings or
2 other infrastructure for public use over an area of not more than five (5)
3 hectares for a period coterminous with the construction but not to exceed five
4 (5) years.

5 SEC. 47. *Private Gratuitous Permit.* – Any owner of private land may
6 be granted by the Secretary or the duly authorized representative a private
7 gratuitous permit over an area of not more than five (5) hectares for a period
8 not exceeding two (2) years.

9 SEC. 48. *Guano Permit.* – Any qualified person may be granted by
10 the Secretary or the duly authorized representative a guano permit to extract
11 and utilize unconsolidated guano deposits and other organic fertilizer
12 materials. The permit is for specific caves and for confined sites only.

13 SEC. 49. *Gemstone Gathering Permit.* – Any qualified person may be
14 granted a non-exclusive gemstone gathering permit by the Secretary or the
15 duly authorized representative to gather stones useful as gemstones in rivers
16 and other locations.

17 SEC. 50. *Assignment or Transfer.* – No assignment or transfer of any
18 type of permit under this chapter shall be allowed.

19 CHAPTER XI

20 TRANSPORT, SALE AND PROCESSING OF MINERALS

21 SEC. 51. *Ore Transport Permit.* – A permit specifying the origin and
22 quantity of non-processed ores or minerals shall be required for their

1 transport. Transport permits are issued by the Secretary or a duly authorized
2 representative who has jurisdiction over the area where the ores or minerals
3 were extracted. Ore or mineral samples not exceeding one (1) metric ton to
4 be used exclusively for assay or pot test purposes are exempted from such
5 requirement.

6 SEC. 52. *Mineral Trading Registration.* – No person shall engage in
7 the trading of ores and minerals, either locally or internationally, unless
8 registered with the Department.

9 SEC. 53. *Minerals Processing Permit.* – No person shall engage in
10 the processing of minerals without a minerals processing permit issued by the
11 Secretary. The mineral processing permit is effective for a period of five (5)
12 years renewable every five years but not to exceed twenty-five (25) years. A
13 mineral agreement or financial or technical assistance agreement includes the
14 right to process ores or minerals, and contractors are no longer required to
15 secure a separate minerals processing permit.

16 SEC. 54. *Eligibility of Foreign-Owned Corporations.* – A foreign-
17 owned corporation may be granted a minerals processing permit.

18 CHAPTER XII

19 DEVELOPMENT OF MINING COMMUNITIES, SCIENCE AND 20 MINING TECHNOLOGY

21 SEC. 55. *Expenditure for Community Development and Mining*
22 *Technology.* – A contractor shall assist in the development of its mining

1 community, the promotion of the general welfare of its inhabitants and the
2 development of mining technology.

3 SEC. 56. *Credited Activities.* – Activities that may be credited as
4 expenditures for the development of mining communities and mining
5 technology are the following:

6 a) Any activity or expenditure intended to enhance the
7 development of the mining and neighboring communities of a mining
8 operation other than those required or provided for under existing laws or
9 collective bargaining agreements and other contracts; and

10 b) Any activity or expenditure directed towards the development of
11 mining technology or geosciences such as institutional or manpower
12 development and basic and applied researches.

13 Appropriate supervision and control mechanisms shall be provided for
14 in the implementing rules and regulations of this Act.

15 SEC. 57. *Training and Development.* – A contractor shall maintain an
16 effective program of manpower training and development throughout the
17 term of the mineral agreement or the financial or technical assistance
18 agreement and shall encourage and train Filipinos to participate in all aspects
19 of the mining operations including the management thereof.

20 SEC. 58. *Use of Local Goods, Services and Technology.* – A
21 contractor shall give preference to the use of local goods, services and

1 technical resources in the mining operations where the same are of equivalent
2 quality and are available on equivalent terms as their imported counterparts.

3 SEC. 59. *Donation or Turn-Over of Facilities.* – Prior to cessation of
4 mining operations occasioned by abandonment or withdrawal of operations
5 on public lands by the contractor, the latter shall have a period of one (1) year
6 therefrom within which to remove improvements, otherwise, all the social
7 infrastructure and facilities are turned over or donated tax-free to the local
8 government to ensure that these infrastructure or facilities are continuously
9 maintained and utilized by the host and neighboring communities.

10 SEC. 60. *Employment of Filipinos.* – A contractor shall give
11 preference to Filipino citizens in all types of mining employment within the
12 country insofar as such citizens are qualified to perform the corresponding
13 work with reasonable efficiency and without hazard to the safety of the
14 operations. A foreigner may be employed as mine general manager, resident
15 manager, mine superintendent, general superintendent, vice president for
16 operations, chief mining engineer, mine engineer or equivalent managerial
17 positions in charge of mining operations without passing the government
18 licensing examination for mining engineers.

19 CHAPTER XIII

20 SAFETY AND ENVIRONMENTAL PROTECTION

21 SEC. 61. *Mine Safety and Environmental Protection.* – All
22 contractors and permittees shall strictly comply with all mines safety rules

1 and regulations promulgated by the Secretary to ensure the safe and sanitary
2 upkeep of the mining operations and achieve waste-free and efficient mine
3 development.

4 SEC. 62. *Mine Labor.* – No person under sixteen (16) years of age
5 shall be employed in any phase of mining operations and no person under
6 eighteen (18) years of age shall be employed in any underground mine.

7 SEC. 63. *Mine Supervision.* – All mining and quarrying operations,
8 large or small, shall be supervised by at least one (1) licensed mining
9 engineer with five (5) years experience in mining operations and one (1)
10 registered mine foreman for every seventy-five (75) personnel involved in
11 actual mining operations.

12 SEC. 64. *Mine Inspection.* – All installations, surface or underground,
13 in mining operations shall be subject to safety inspection at reasonable hours
14 of the day or night. The inspection shall not impede or obstruct the work in
15 progress of a contractor or permittee.

16 SEC. 65. *Power to Suspend.* – The contractor is required to remedy
17 any practice connected with mining or quarrying operation which is not in
18 accordance with safety and environmental laws, rules and regulations. In case
19 of imminent danger to life or property, the Secretary or the authorized
20 representative may summarily suspend mining or quarrying operations until
21 the appropriate measures are taken by the contractor or permittee.

1 SEC. 66. *Report of Accidents.* – In case of any accident or incident,
2 causing or creating the danger of loss of life or serious physical injuries, the
3 mining engineer in charge of operations shall immediately report the incident
4 to the regional office where the mining operations are situated. Failure to
5 report the same without justifiable reason is a cause for the imposition of
6 administrative sanctions as prescribed in the implementing rules and
7 regulations of this Act.

8 SEC. 67. *Environmental Protection.* – Every contractor shall
9 undertake an environmental protection and enhancement program covering
10 the period of the mineral agreement, financial or technical assistance
11 agreement or permit. Such environmental program shall be incorporated in
12 the work program which the contractor or permittee must submit as an
13 accompanying document to the application for a mineral agreement, financial
14 or technical assistance agreement or permit. The work program must include
15 not only plans relative to mining operations but also the rehabilitation,
16 regeneration, revegetation and reforestation of mineralized areas, slope
17 stabilization of mined-out and tailings-covered areas, aquaculture, watershed
18 development, water conservation and socioeconomic development.

19 SEC. 68. *Environmental Impact Assessment.* – Except during the
20 exploration period of a mineral agreement or financial or technical assistance
21 agreement, an environmental compliance certificate shall be required based
22 on an environmental impact assessment.

1 contractor shall perform reforestation work within the mining area in
2 accordance with forestry laws, rules and regulations.

3 SEC. 71. *Water Rights*. – A contractor shall have water rights for
4 mining operations upon the approval of the application with the authorized
5 government agency in accordance with the existing water laws, rules and
6 regulations: *Provided*, That water rights already granted or vested are not
7 impaired.

8 The appropriate agency shall regulate water rights and the reasonable
9 and equitable distribution of water supply so as to prevent monopoly of the
10 use thereof.

11 SEC. 72. *Right to Possess Explosives*. – A contractor shall have the
12 right to possess and use explosives within the contract area as may be
13 necessary for the mining operations upon approval of an application with the
14 authorized government agency in accordance with existing laws, rules and
15 regulations promulgated.

16 The appropriate government agency reserves the right to regulate and
17 control the explosive accessories to ensure safe mining operations.

18 SEC. 73. *Easement Rights*. – When mining areas are so situated that
19 for purposes of more economical mining operations, it is necessary to build,
20 construct or install on the mining areas or lands owned, occupied or leased by
21 other persons such infrastructure as roads, railroads, mills, waste dump sites,
22 tailings ponds, warehouses, staging or storage areas, and port facilities,

1 tramways, runways, airports, electric transmission, telephone or telegraph
2 lines, dams and their normal flood and catchment areas, sites for water wells,
3 ditches, canals, new river beds, pipelines, flumes, cuts, shafts, or tunnels, the
4 contractor shall, upon payment of just compensation, be entitled to enter the
5 mining areas or lands.

6 SEC. 74. *Entry Into Private Lands and Concession Areas.* – Subject
7 to prior notification, holders of mining rights shall not be prevented from
8 entry into private lands and concession areas by surface owners, occupants or
9 concessionaires when conducting mining operations therein. Any damage
10 done to the property of the surface owner, occupant or concessionaire as a
11 consequence of such operation shall be properly compensated as provided in
12 the implementing rules and regulations of this Act. To guarantee such
13 compensation, the person authorized to conduct mining operations shall,
14 prior thereto, post a bond with the Secretary based on the type of properties
15 and the prevailing prices in and around the area where the mining operations
16 are to be conducted, with surety or sureties satisfactory to the Secretary.

17 **CHAPTER XV**

18 **PROTESTS, ADVERSE CLAIMS AND APPEALS**

19 SEC. 75. *Protest and Adverse Claims.* – Any protest or adverse claim
20 of any nature whatsoever involving the right to possession, exploration,
21 development or operation of any mining claim in any part of the Philippines
22 shall be filed before the office of the Secretary for investigation. The protest

1 or adverse claims must be accompanied by plans, documents, and other data
2 upon which the protest or adverse claim is based.

3 All protests and adverse claims shall be filed not later than fifteen (15)
4 days after the date of the first publication of the application for mineral
5 agreement. When a protest or adverse claim is filed, all proceedings in
6 connection with the application for mineral agreement, financial or technical
7 assistance agreement or permits shall be stayed until the controversy is
8 settled and decided by the Secretary.

9 SEC. 76. *Priority Rights.* – In case of conflict on mining claims,
10 priority of recording shall determine the right to the area, notwithstanding
11 any defect in form or technicality. In case of discrepancy between the area
12 described in the application for mineral agreement, financial or technical
13 assistance agreement or permit and the actual area occupied in the ground,
14 the former prevails subject to any question in compliance with all the
15 requirements under this Act.

16 SEC. 77. *Appeals.* – Any party not satisfied with the decision or order
17 of the Secretary may, within fifteen (15) days from receipt thereof, appeal to
18 the Office of the President.

19 In all cases, the decision of the Secretary shall be executory
20 notwithstanding any appeal unless the President of the Philippines, the Court
21 of Appeals or the Supreme Court directs otherwise, and the prevailing party
22 has the right to immediately take possession and conduct exploration and

1 mining operations: *Provided*, That the prevailing party shall deposit in
2 escrow in a government bank an amount to be fixed by the Secretary for the
3 protection of the interest of the party to whom the mining claims are
4 ultimately awarded.

5 A petition for review by certiorari and questions of law may be filed by
6 the aggrieved party with the Court of Appeals within thirty (30) days from
7 receipt of the decision or order of the President of the Philippines. Any party
8 not satisfied with the decision or order of the Court of Appeals may file an
9 appeal before the Supreme Court within thirty (30) days from receipt thereof.

10 CHAPTER XVI

11 FISCAL PROVISIONS

12 SEC. 78. *Government Share*. – The total government share in mineral
13 agreements is in the excise tax on mineral products as provided for in the
14 National Internal Revenue Code and a royalty equivalent to three percent
15 (3%) of the gross value of minerals sold for mineral agreements and other
16 types of permits and five percent (5%) of the gross value of minerals sold for
17 financial or technical assistance agreements. In the case of limestone,
18 pozzolan, shale or silica for cement manufacture and other industries
19 similarly situated in which local prices are not set, the gross value shall be the
20 higher of the values determined by a private licensed mining engineer with
21 more than five (5) years experience in the industry or mine valuation of the
22 Department of Mineral Resources. In co-production and joint venture

1 agreements, government share in addition to that provided in this section,
2 shall be negotiated by the Secretary with the contractors: *Provided*, That the
3 government earns a reasonable rate of return on its investments.

4 SEC. 79. *Occupation Fees.* – There shall be collected from the
5 holders of mineral agreements, financial or technical assistance agreements
6 or permits, occupation fees in amounts prescribed by the Secretary and
7 provided in the implementing rules and regulations of this Act.

8 SEC. 80. *Manner of Payment of Occupation Fees.* –The fees shall be
9 paid on the date the mineral agreement, financial or technical assistance
10 agreement or permit is registered with the appropriate mines regional office
11 and on the same date every year thereafter. It shall be paid to the treasurer of
12 the municipality or city where the onshore mining areas are located or to the
13 Secretary in case of offshore mining areas. If the fee is not paid on or before
14 the due date, a penalty of twenty-five percent (25%) of the fee shall be
15 imposed.

16 SEC. 81. *Mine Waste and Tailings Fees.* – A semi-annual fee to be
17 known as Mine Waste and Tailings Fee is hereby imposed on all operating
18 mines. This fee accrues to a reserve fund to be used exclusively for payment
19 on damages to:

- 20 a) Lives and personal safety;
21 b) Lands, agricultural crops, forest products, marine life and
22 aquatic resources and cultural resources; and

1 c) Infrastructure and the revegetation and rehabilitation of silted
2 farmlands and other areas devoted to agriculture and fishing caused by
3 mining pollution.

4 This is in addition to the suspension or closure of the activities of the
5 contractor at any time and the penal sanctions imposed upon the contractor.

6 The Secretary is authorized to increase mine wastes and tailings fees
7 when public interest so requires.

8 SEC. 82. *Filing Fees and Other Charges.* –The Secretary is
9 authorized to charge reasonable filing fees or other charges as the Secretary
10 may prescribe in the implementing rules and regulations of this Act.

14 CHAPTER XVII

15 INCENTIVES

16 SEC. 83. *Mining Claims.* – Except as provided in this Act, no other
17 taxes, fees or imposts may be imposed by the national or local governments
18 on mining claims involving mineral agreements, financial or technical
19 assistance agreements and permits.

20 SEC. 84. *Environmental Protection and Enhancement Structures*
21 *and Equipment.* – Environmental protection and enhancement structures and
22 equipment such as tailings dams, sedimentation ponds, pipelines, flumes and

1 similar structures and equipment as may be determined by the Secretary are
2 not subject to real property or other taxes.

3 **CHAPTER XVIII**

4 **GROUND FOR CANCELLATION, REVOCATION AND** 5 **TERMINATION**

6 SEC. 85. *Fixed Causes of Cancellation.* – The causes of cancellation
7 provided for in this Act are considered inherent in all mineral agreements,
8 financial or technical assistance agreements or permits or other rights
9 hereunder, and no new cause or modification of such causes applies to the
10 agreement or permit existing at the time such new or modified causes are
11 made effective.

12 SEC. 86. *Violations of Terms and Conditions of Agreements and*
13 *Permits.* – Gross violation of the terms and conditions of the mineral
14 agreement, financial or technical assistance agreement or permit is sufficient
15 ground for the cancellation of the same.

16 SEC. 87. *Falsehood and Omission of Facts.* – All statements made in
17 the application for mineral agreement, financial or technical assistance
18 agreement or permit are considered as conditions and essential parts thereof
19 and any false statement or omission of facts which may alter, change or affect
20 substantially the facts set forth in the statements is a ground for the
21 termination of any mineral agreement, financial or technical assistance
22 agreement or permit.

CHAPTER XIX

PENAL PROVISIONS

SEC. 88. *False Statements.* – Any person who knowingly presents or causes to be presented 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, mineral agreements, financial or technical assistance agreements or permits is guilty of perjury if such statement is made under oath and shall be punished, upon conviction, in accordance with the provisions of the Revised Penal Code. If the statement is not under oath, offender shall be punished, upon conviction, with a fine of Ten Million Pesos (P10,000,000.00).

SEC. 89. *Intentional Overlapping.* – Any person who intentionally overlaps any mining claim knowing fully well that the area is already covered by another valid and subsisting mining claim is guilty of falsification of public documents punishable under the Revised Penal Code.

SEC. 90. *Destruction of Claim Monuments and Marks.* – Any person who willfully and maliciously defaces, removes or disturbs any stake, post, monuments, boundary line or any other mark lawfully placed on mining claims or destroys, injures or defaces any rules or notices required under this Act shall be punished, upon conviction, by a fine of One Million Pesos (P1,000,000.00) apart from paying compensation for the expenses incurred in

1 replacing the defaced altered, removed or disturbed stakes, posts,
2 monuments, boundary lines, notices or any other mark.

3 SEC. 91. *Theft of Minerals.* – Any person who, without a mineral
4 agreement, financial or technical assistance agreement or permit, extracts,
5 removes or disposes of for commercial purposes minerals belonging to the
6 Government or from a mining claim held by other persons without the
7 written permission of such claim owner is deemed to have stolen the ores or
8 the products therefrom from the mines or mills. The offender shall be
9 punished, upon conviction, by imprisonment for a period of six (6) months to
10 six (6) years or pay a fine of double the value of the minerals stolen or both,
11 at the discretion of the court, apart from paying the compensation for the
12 minerals extracted and disposed of, royalty taxes and the damage which may
13 have been caused thereby.

14 SEC. 92. *Fraudulent Conveyance of Mining Interest.* – Any person
15 who, with intent to gain, knowingly sells, transfers or conveys any false
16 mining claim or any false right, title or interest in such mining claims which
17 is not actually located on the ground and does not exist is guilty of estafa and
18 shall be punished, upon conviction, in accordance with the provisions of the
19 Revised Penal Code.

20 SEC. 93. *Salting of Minerals and Mineral Lands.* – Any person who
21 knowingly places or deposits or becomes accessory to the placing or
22 depositing of any mineral in any land for the purposes of “salting” or

1 misleading other persons as to the value of the mineral deposits in such land,
2 or who knowingly co-mingles or causes to be co-mingled samples of
3 minerals with any other substance whatsoever which increases the value or in
4 any way changes the nature of the minerals for the purpose of deceiving,
5 cheating or defrauding any person, shall be punished, upon conviction, by
6 imprisonment not exceeding thirty (30) years apart from paying the
7 compensation for the damage which may have been caused thereby.

8 SEC. 94. *Pollution from Mine Wastes and Mill Tailings.* – Any
9 person who willfully causes or permits sludge or tailings and other mine and
10 mill wastes to accumulate in or flow from the area covered by the mineral
11 agreement, financial or technical assistance agreement or permit so as to
12 cause danger, injury or obstruction to any public road, river, stream or other
13 public property, shall be punished, upon conviction, by a fine not exceeding
14 Five Million Pesos (P5,000,000.00) or imprisonment not exceeding six (6)
15 years, or both, at the discretion of the court, apart from paying the
16 compensation for the damage which may have been caused thereby.

17 SEC. 95. *Interference with Mine Water Rights.* – Any person who
18 willfully takes water from a mine, mill, dam, reservoir or from any other
19 source of mine water or prevents the water from entering the mine or mill,
20 dam, reservoir or any other source of mine water or in any way interferes in
21 the full enjoyment of water rights previously granted and lawfully held by
22 another person shall be punished, upon conviction, by a fine not exceeding

1 Five Million Pesos (P5,000,000.00) or imprisonment not exceeding six (6)
2 months, or both, at the discretion of the court.

3 SEC. 96. *Destruction of Mining Structures.* – Any person who
4 willfully destroys or damages structure in contract areas under mineral
5 agreements, financial or technical assistance agreements or permits or on mill
6 sites shall be punished, upon conviction, by imprisonment not exceeding six
7 (6) years apart from paying compensation for the damage which may have
8 been caused thereby.

9 SEC. 97. *Mine Arson.* – Any person who willfully sets fire to any
10 mine, workings, mill or fittings shall be prosecuted in accordance with
11 Article 320 of the Revised Penal Code, as amended, apart from paying the
12 compensation for the damage which may have been caused thereby.

13 SEC. 98. *Willfull Damage to a Mine.* – Any person who willfully
14 damages and unlawfully causes water to flow into a mine, obstructs any shaft
15 or passage to a mine, damages or destroys or renders useless, any machine,
16 equipment, apparatus, rope, chain or any other thing used in a mine shall be
17 punished, upon conviction, by imprisonment not exceeding six (6) years apart
18 from paying the compensation for the damage which may have been caused
19 thereby.

20 SEC. 99. *Illegal Obstruction to Government Officials.* – Any
21 person who willfully obstructs, harasses or threatens the Secretary or the

1 authorized representatives of the Secretary in the performance of duties
2 pursuant to this Act shall be punished, upon conviction, by a fine not
3 exceeding One Million Pesos (P1,000,000.00) or by imprisonment not
4 exceeding one (1) year, or both, at the discretion of the court.

5 SEC. 100. *Illegal Obstruction to Contractor or Permittee.* – Any
6 person who, without justifiable cause, prevents or obstructs a contractor or
7 permittee from undertaking prospecting, exploration, development or
8 mining operations shall be punished, upon conviction, by a fine not
9 exceeding One Million Pesos (P1,000,000.00) or by imprisonment not
10 exceeding one (1) year, or both, at the discretion of the court.

11 SEC. 101. *Delay in the Payment of Tax or Royalty.* – Where the
12 amount of tax or royalty provided for under this Act is not paid on due date,
13 there shall be collected, as part of the amount due, a surcharge of five percent
14 (5%) per month compounded monthly from the due date until its full
15 payment.

16 SEC. 102. *Offenses by Corporation.* – Whenever any of the offenses
17 provided for under this Act is committed by a corporation or partnership, the
18 president of the corporation and all of its secretaries or managers or agents or
19 representatives of a foreign-owned corporation who directed or induced the
20 commission of the offense are criminally liable as principal thereof.

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CHAPTER XX

OTHER MISCELLANEOUS PROVISIONS

SEC. 103. *Executive Officer.* – The Secretary is the executive officer charged with carrying out the provisions of this Act. Except as herein provided, the Secretary shall issue the rules, regulations and orders necessary to carry out the provisions and purposes of this Act.

SEC. 104. *Conservation Measures.* – All contractors and permittees under this Act shall take appropriate measures and undertake researches in accordance with the best practices to maximize recovery and utilization of minerals and to stop or prevent wastes in mining and milling operations. Rules and regulations may be issued which shall require contractors and permittees to utilize in their exploration, development and mining operations the latest and most improved methods and devices to prevent wastes, or from causing pollution or otherwise damaging streams, surface and underground water supply and valuable mineral deposits.

During the productive operation of any mine, the contractor or permittee shall take the necessary measures to provide for the growth and development of any industry suitable for the area, other than mining, in order that when the mine is exhausted or becomes unprofitable for mining purposes, the people residing therein or those who used to work for the mine may have a substitute industry or business activity to provide for their means of livelihood. The mine shall be placed in a condition suitable for

habitation or agriculture and free from danger of cave-ins, slides and other risks brought about by mining operations.

SEC. 105. *Fixed Taxes and Fees.* – Taxes and royalties which are fixed by the provisions of this Act are considered as inherent in all mineral agreements, financial or technical assistance agreements or permits and remain at the rates and levels in force at the time such agreements or permits were issued. Any increase in the amount or rate of taxes and royalties applies only to agreements or permits subsequent to the effectivity of such increase.

SEC. 106. *Minerals Not Included in Land Grants.* – Land grants to provinces, districts or municipalities to aid in the construction of roads, or other public works do not include the minerals therein.

SEC. 107. *Maps of Mine Workings Required.* – Contractors and permittees undertaking underground operations shall prepare and maintain a map or maps of convenient scale showing their workings which shall be updated and made available to the Secretary or the duly authorized representative upon demand.

CHAPTER XXI

TRANSITORY AND FINAL PROVISIONS

SEC. 108. *Abolition of the Mines and Geosciences Bureau.* – The Mines and Geosciences Bureau is hereby abolished subject to Section 110 of this Act.

1 SEC. 109. *Transfer of Powers and Functions.* – The powers and
2 functions of the Department of Environment and Natural Resources as far as
3 mineral resources are concerned, as well as all the powers and functions of
4 the Mines and Geosciences Bureau are hereby transferred to the Department
5 of Mineral Resources.

6 The foregoing transfer of power and functions includes all applicable
7 funds and appropriations, records, equipment, property and personnel as may
8 be necessary.

9 SEC. 110. *Transfer of Rights, Assets and Liabilities.* – The
10 Department shall, by virtue of this Act, be subrogated to all the rights and
11 assume all the liabilities of the Mines and Geosciences Bureau and all their
12 funds, records, property, assets, equipment and such personnel as necessary,
13 including unexpended appropriations or allocations. All contracts and
14 liabilities of the Mines and Geosciences Bureau are hereby transferred to and
15 assumed by the Department and shall be acted upon in accordance with the
16 Auditing Code and other pertinent laws, rules and regulations. The officers
17 and employees of the Mines and Geosciences Bureau shall continue in a
18 holdover capacity until such time that the new officers and employees of the
19 Department are appointed in accordance with this Act.

20 SEC. 111. *Structure and Staffing Pattern.* – The organizational
21 framework and staffing pattern of the Department shall be prescribed and
22 approved by the Secretary within sixty (60) days after the approval of this

1 Act and the authorized positions created therein shall be filled by regular
2 appointments by the President or the Secretary as the case may be. In the
3 filling of positions created, preference shall be given to the personnel of the
4 Mines and Geosciences Bureau: *Provided*, That if such individuals possess
5 the same qualifications, seniority shall be given priority.

6 Any personnel of the Mines and Geosciences Bureau who is appointed
7 but fails to report for duty within fifteen (15) days from receipt of the
8 appointment is deemed to have declined the appointment, in which case the
9 position may be filled up by another qualified applicant. Those incumbents
10 whose positions are not included therein and who are not appointed to any
11 position in the Department or its bureaus within six (6) months from the
12 approval of the organizational framework and staffing pattern are deemed
13 separated from the service. Those separated from the service shall receive the
14 retirement benefits to which they may be entitled under existing laws, rules
15 and regulations. Otherwise, they shall be paid the equivalent of one (1) month
16 basic salary for every year of service in the government or a fraction thereof,
17 computed on the basis of highest salary received.

18 SEC. 112. *Appropriations*. – The amount necessary for the
19 implementation of this Act shall be taken from the current fiscal year's
20 appropriations of the Mines and Geosciences Bureau and such other amounts
21 that the President may allocate from other resources provided that the total
22 amount shall not exceed Five Hundred Million Pesos (P500,000,000.00).

1 Thereafter, the amount needed for the operation and maintenance of the
2 Department shall be included in the annual General Appropriations Act.

3 SEC. 113. *Repealing Clause.* – All laws, presidential decrees,
4 executive orders, rules and regulations contrary to or inconsistent with the
5 provisions of this Act are hereby repealed or modified accordingly.

6 SEC. 114. *Effectivity.* – This Act shall take effect fifteen (15) days
7 after its publication in the *Official Gazette* or in a newspaper of general
8 circulation.

9 Approved,