

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

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 165



Introduced by Rep. Rodante D. Marcoleta and Rep. Caroline L. Tanchay

EXPLANATORY NOTE

Article II, Section 16 of the 1987 Constitution provides:

"The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature."

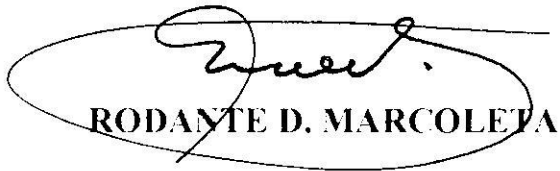
Despite existing laws that protect the environment, there are still lapses in implementing the lawful right to a healthy and balanced ecology.

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.

In 2013, a tragedy between 2GO Group Incorporation and Philippine Span Asia Carrier Corporation ships claimed twenty-four (24) lives and imperiled the Cadova marine environment in Talisay, Cebu. One of the sunken ships was loaded with 120,000 liters of Bunker oil, 20,000 liters of Lube oil and 20,000 liters of Diesel fuel. Days after the collision, oils from wrecked and sunken ships had reached five (5) barangays of Cardova town. The marine ecosystem of the concerned areas was affected causing the residents to lose their sources of livelihood. Regrettably, even with these environmental disasters, there is still no policy to ensure sufficient financial coverage for communities affected by man-made disasters.

This bill seeks to require Mandatory Environmental Insurance Coverage for owners and operators of environmentally-critical projects which activities destroy or pose risks to the environment, the ecosystems and their constituent elements. The said insurance will be used to guarantee sufficient funding coverage for the needed restoration and compensate for damages caused by their operations.

In view of the foregoing, approval of this bill is highly and earnestly recommended.



Signature of Rodante D. Marcoleta, a stylized cursive script, enclosed within an oval border.

RODANTE D. MARCOLETA



Signature of Caroline L. Tanchay, a stylized cursive script, enclosed within an oval border.

CAROLINE L. TANCHAY

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AN ACT
ESTABLISHING A NATIONAL FRAMEWORK FOR THE MANDATORY
ENVIRONMENTAL INSURANCE COVERAGE OF ENVIRONMENTALLY
CRITICAL PROJECTS

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

SECTION 1. *Title.* – This Act shall be known as the “*Mandatory Environmental Insurance Coverage Act*”.

SEC. 2. *Definition of Terms.* – As used in this Act:

- a) *Environmentally Critical Project* refers to a project that has high potential for significant negative environmental impact and is listed as such under Presidential Proclamation (P.P.) No. 2146, series of 1981, and P.P. No. 803, series of 1996, as well as other projects which the President may proclaim as environmentally critical in accordance with Section 4 of P.D. 1586 or the Philippine Environmental Impact Statement System;
- b) *Heavy industries* refer to non-ferrous metal industries, iron and steel mills, petroleum, and petrochemical industries, including oil and gas smelting plants;
- c) *Infrastructure projects* refer to major dams, major power plants, major reclamation projects, and major roads and bridges; and,
- d) *Resource Extractive Industries* refer to major mining and quarrying projects; forestry projects involving logging, major wood processing projects, introduction of fauna or exotic animals in public or private forests, forest occupancy, extraction of mangrove products, and grazing; and fishery projects, specifically fishpond development projects and dikes for such projects.

SEC. 3. Establishment of a National Framework for Mandatory Environmental Insurance Coverage. – Within one (1) year following the effectivity of this Act, a national framework for Mandatory Environmental Insurance Coverage (MEIC) shall be established. The framework shall consider the following:

a) *Coverage.* All owners and operators of environmentally critical projects (ECPs) shall be required to secure MEIC for ECPs as prescribed under this Section, to compensate for the adverse environmental consequences which include damage to health and property, and costs for environmental rehabilitation, remediation, cleanup, and other environmental impairments arising from their operations. For purposes of this Act, ECPs shall include heavy industries, major manufacturing industries, major resource-extractive industries, major infrastructure projects, and other similar projects that could pose serious risks to people and the environment.

b) *Forms of MEIC.* - The MEIC shall be in the form of:

1. Environmental guarantee cash fund established pursuant to existing environmental laws; or
2. Environmental insurance policy (EIP) obtained from bonding or insurance companies, whenever the environmental guarantee cash fund is insufficient to cover the said adverse environmental consequences, upon determination and recommendation of the Inter-Agency Technical Committee created pursuant to Section 5 of this Act.

The EIP may take the form of the following:

- i. Environment performance bond (EPB) – which shall be required for all ongoing activities or projects issued with Environmental Compliance Certificate (ECC) pursuant to P.D. 1586, to guarantee adequate and timely compliance with the environmental standards and the terms and conditions set forth by the Department of Environment and Natural Resources (DENR) during the pre-development, development, and construction phases of the project. The EPB 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
- ii. Environment pollution, impairment, and cleanup liability insurance (EPICLI) – which shall be required for all existing and future activities or

projects issued with ECC pursuant to P.D. 1586, to cover the operational phases. The EPICLI shall answer for all claims arising from damages to the environment; bodily injury and property damage arising from a pollution event; and for the cost of environmental rehabilitation, cleanup, or remediation responses to address the contamination or impairment of the environment.

SEC. 4. *Pre-requisite To The Construction Or Operational Phase.* – Owners and operators of ECPs shall not be allowed to commence construction or commercial operation without initially obtaining the MEIC required under Section 3 of this Act.

SEC. 5. *Creation of an Inter-Agency Technical Committee.* – Within one (1) year following the effectivity of this Act, the Secretary of the DENR shall establish and chair an Inter-Agency Committee (IATC), with the Commissioner of the Insurance Commission and representatives of the insurance industry, the mining industry, and other stakeholders that the DENR may deem fit, as members. Within the same period, the IATC shall:

- a) Identify the perils or possible negative environmental impacts, activities, processes or undertakings that need to be mandatorily insured as provided in Section 3 hereof;
- b) Conduct risk assessment to determine the appropriate insurance coverage for different ECPs and activities;
- c) Formulate guidelines for the identification of primary impact areas and prescription of rehabilitation or remediation measures in cases of environmental damages;
- d) Formulate cleanup guidelines;
- e) Formulate guidelines for the identification of beneficiaries of the MEIC;
- f) Ensure that the premium rates of the EIP are commensurate to the risks covered;
- g) Formulate guidelines for the determination of veracity of claims;
- h) Formulate guidelines for the establishment of insurance facilities; and
- i) Undertake such activities as may be necessary to fulfill the objectives of this Act.

For purposes of paragraph (h) of this Section, the Insurance Commission, in coordination with the DENR, shall formulate guidelines for the establishment of insurance facilities, within one (1) year following the effectivity of this Act.

SEC. 6. *Beneficiaries.* – The beneficiaries of the MEIC include affected communities, stakeholders, and local government units within the projects' primary impact areas. Also included as beneficiaries are government departments, bureaus, and

agencies which are tasked under the law to undertake the rehabilitation, cleanup, and monitoring of sites affected by the pollution or insurable event, for which no responsible private or public entity is specified.

The beneficiaries shall be represented by the government, particularly the DENR. The IATC shall identify the affected areas and prescribe rehabilitation or remediation measures pursuant to Sec. 5 of this Act.

SEC. 7. *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 the corresponding payment to beneficiaries, upon advice of the DENR and with proper documentation.

The DENR may create an ad-hoc body composed of representatives from 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 DENR shall not receive and handle payment of claims for environmental damages, penalties, and charges, except for the claims component which properly accrues to it as an insurance beneficiary.

The government agency tasked with rehabilitation and assigned as the beneficiary of the MEIC as provided under Section 6 of this Act, shall undertake the same utilizing funds coming from the insurance claim upon approval of the DENR.

SEC. 8. *Penalties.* – The failure of the owner and operator of an ECP to secure an MEIC as prescribed under Section 3 hereof, or of the insurance company to pay a verified claim in violation of the provisions of this Act and within reasonable time, 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, after the service of sentence, be deported immediately without further proceedings by the Bureau of Immigration.

Government officials, employees, and agents who approve the construction or operation of environmentally-critical projects without the necessary MEIC, in violation

of the provisions 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. 9. *Implementing Rules and Regulations.* – Within sixty (60) days from the approval of this Act, the DENR shall, in coordination with the Insurance Commission, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 10. *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. 11. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,