

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1937



Introduced by **HON. LUIS RAYMUND “LRAY” F. VILLAFUERTE, JR.,**
HON. MIGUEL LUIS R. VILLAFUERTE, HON. TSUYOSHI ANTHONY G. HORIBATA
AND HON. NICOLAS ENCISO VIII

EXPLANATORY NOTE

There are many human acts that have caused major alterations in our surroundings. Instances such as the 1996 Marcopper Mining tragedy, which led to the biological death of the Boac and Makalupnit rivers, and the destruction of hectares of farmlands that displaced families or the 2005 and 2007 massive fish kills caused by a cyanide spill from the operations of Lafayette Philippines, Inc. These operations have provided an honest living for the people in the area but have left only misfortune and mishap on the environment which it will forever carry.

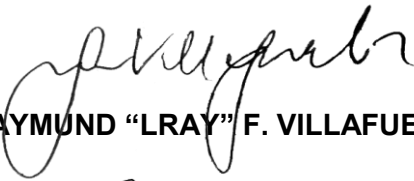
Operations to mitigate and rehabilitate the unforeseen damages to the ecosystem and its constituents need funds. However, the lack of an institutionalized financial assistance from the institutions and corporations that caused these damages greatly stunts the rehabilitation of the elements affected.

There is a need for financial compensation from environmentally-critical businesses in order to prevent these disasters from happening and to be able to readily provide for rehabilitation in case repercussions are inevitable. The goal is to be able to handle the damage that unanticipated and unforeseen disasters make and to compensate for losses to the environment through the insurance coverage. The Philippines is already considered as the most disaster-prone region in Southeast Asia. The creation of business entails the use of natural resources such as land and water. Given that, an ecosystem is greatly affected as its natural resources is used and manipulated for the interest of the business. With the country already being a disaster-prone region, the need becomes greater in making sure businesses provide insurance for possible environmental damages that may occur in the course of them doing their business.

With businesses being created for the intended purpose of profit and economic development for the area, the environmental degradation that comes with this is an unfortunate side effect. It is considered as a “negative externality”, which are unintended and indirect negative effects of economic activities on other producers and consumers. This could prompt owners to forego the importance of the social costs that they impose on the other constituents of the area.

The Philippines must hold accountable the institutions and corporations that pose risks to the environment, the ecosystem and their constituents. This bill seeks to institutionalize an insurance plan given to corporations of a certain nature, in coordination with the DENR, to ensure that possible damages to the environment are well covered for. Every time an environmentally-critical business moves forward with a project, they must avail of a Mandatory Environmental Insurance Coverage (MEIC) as insurance for unforeseen damage towards the environment. The said insurance will be used to guarantee sufficient funding coverage for the needed restoration and rehabilitation of a damaged ecosystem and all of its constituents caused by the said businesses.

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



LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.



TSUYOSHI ANTHONY G. HORIBATA



MIGUEL LUIS R. VILLAFUERTE



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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*".

SECTION 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 Presidential Decree No. 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.

SECTION 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 Presidential Decree No. 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 Presidential Decree No. 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.

SECTION 4. *Prerequisite 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.

SECTION 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.

SECTION 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 Section 5 of this Act.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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,