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SENATE

S. B. No. 1069

RECEIVED BY: J.

INTRODUCED BY SENATOR ANA THERESIA "RISA" HONTIVEROS
BARAQUEL

**AN ACT
TO REGULATE THE RATIONAL EXPLORATION, DEVELOPMENT
AND UTILIZATION OF MINERAL RESOURCES, AND TO ENSURE
THE EQUITABLE SHARING OF BENEFITS FOR THE STATE,
INDIGENOUS PEOPLES AND LOCAL COMMUNITIES, AND FOR
OTHER PURPOSES**

EXPLANATORY NOTE

The Philippines holds a large reserve of mineral resources and is considered as among the most mineralized countries in the world. It is 3rd richest in the world for gold per unit area, 4th richest in copper, 5th in nickel, and 6th for chromite. These mineral resources have been sought to contribute to national development, however in the past twenty years, the mining industry has not contributed significantly to the economy and even caused negative impacts to communities, including detrimental environmental destructions where the mines are located.

The present mining law (Republic Act 7942) has clearly failed to regulate the development and exploitation of our mineral resources in a way where benefits are maximized by Filipino communities and by the State, with mitigated impacts to other environmental and natural resources, industries and the rights of Filipino communities. The present fiscal regime for mining does not allow us to maximize the benefits of our non-renewable resource.

Mining as an economic activity is not only an issue of resource use but also concerns water and food security, environment, human rights and indigenous peoples rights and a rights-based approach to sustainable development.

In the past decade, the mining industry has only contributed an annual average of 0.7-1% to the Gross Domestic Product compared to other industries because the government receives only 2% excise tax share, and employs 200,000-250,000 or only 0.6% of total employment.

Meanwhile, it should be noted that the ecotourism, agriculture, fisheries and forestry sectors have been found to be seriously threatened by the mining industry. Downstream mining activities are not necessarily promoted because our present mining law allows for export of our ores and processing elsewhere.

Mining largely affects forest covers, watersheds, agricultural lands and water systems that sustain us. With only 10% forest cover, entry of mining projects will further threaten our biodiversity—including important bird and key biodiversity areas. Other than land and water pollution, mining also causes coral reef degradation as tailings and siltation find its way to the sea, and eventually affects our food source.

Mining concessions have encroached in areas where indigenous and rural communities, including farmers and fisher folks reside, and this threaten their health, food supply, livelihood, culture, integrity of their ancestral domain—their rights. Under the current system, mining is prioritized over other land uses. Further the current mining policy gives companies the right to water, timber, and easement, and to use explosives.

Many cases of mining-related conflicts, violence and human rights violations have been documented and reported, most of which are continuing and remain unaddressed. This is aggravated by the presence of paramilitary forces in mining areas, also allowed for by the government.

Needless to say, the present law has allowed for the plunder of our finite mineral resources at the expense of the environment and the Filipino people.

The present mining law, an outdated one, also has not considered the occurrence of impacts of climate change and disaster risks. In the past five years alone, many large-scale mining-related disasters have been reported. The Philippines is among the top five most vulnerable countries to the impacts of climate change. Mining operations and climate-induced extreme weather events aggravate the impacts of disasters to the ecosystem and communities.

There is a need to overhaul the current mining policy framework to ensure the proper management and utilization of our mineral resources, and to address the current mining issues. Likewise, the new policy must also be climate sensitive and should factor in the impacts of climate change to the industry and Filipino communities.

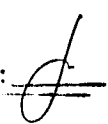
In order to address the challenges in the mining industry and the proper management of our mineral, this measure is being proposed. This bill seeks to guarantee that the exploration, development and utilization of mineral resources will primarily benefit the Filipino people; prioritizes sustainable livelihood choices for communities; gives utmost importance to food security and livable conditions for the people; ensures that the gains from the mining industry would be maximized while preventing or mitigating its adverse effects; recognizes that the issue of environment and sustainable development is local and thus prioritizes local participation in decisions surrounding mining; ensures the protection of human rights of communities and individuals; and imposes harsh penalties for the violation of its provisions.

The passage of this bill is earnestly sought.


ANA THERESIA "RISA" HONTIVEROS BARAQUEL
Senator

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TO REGULATE THE RATIONAL EXPLORATION, DEVELOPMENT AND
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PEOPLES AND LOCAL COMMUNITIES, AND FOR OTHER PURPOSES

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

CHAPTER I
DECLARATION OF POLICIES

SECTION 1. Short Title. – This Act shall be known as the “*Alternative Minerals Management Act of 2016.*”

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to:

- a. Maintain peace and order, protect life, liberty and property and promote the general welfare;
- b. Advance the medium- and long-term needs of the Philippines;
- c. Encourage the advancement of the industry’s technology with emphasis on existing indigenous knowledge, research and development;
- d. Protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature;
- e. Value the dignity of every human person and guarantees full respect for human rights;
- f. Promote social justice in all phases of national development;
- g. Recognize and promote the rights of indigenous cultural communities within the framework of national unity and development and protect the right to self-determination of the indigenous and Moro peoples;
- h. Protect and promote the right to health of the people and instill health consciousness among them;
- i. Pursue an independent foreign policy. In its relations with other states the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination;
- j. Develop a self-reliant and independent national economy effectively controlled by Filipinos;
- k. Ensure the autonomy of local governments;
- l. Give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities,

- 1 and remove cultural inequities by equitably diffusing wealth and political power for
2 the common good;
- 3 m. Encourage non-governmental, community-based, or sectoral organizations that
4 promote the welfare of the nation; and
- 5 n. Adopt and accept the generally accepted principles as embodied in the International
6 Covenant on Civil and Political Rights, International Covenant on Economic, Social,
7 Cultural Rights, UN Declaration on the Rights of Indigenous Peoples, UN
8 Convention on Biodiversity and other international accords on human rights, labor
9 rights, the rights of women and children, and the protection and preservation of the
10 environment, of which the State is a party.

11

12 **SEC. 3.** – The State shall formulate a National Industrialization Program pursuant to the
13 principles of agricultural modernization, development of industrial and manufacturing
14 industries, and rational, sustainable, and equitable development of the national economy.
15 The State shall, therefore, promote the development of mineral processing to maximize the
16 benefits or value-added from mining. Towards this end, it shall encourage the establishment
17 and development of manufacturing plants that will utilize locally processed mineral products
18 as well as mining firms that will process mineral ores first for domestic purposes and before
19 exporting them to other countries.

20

21 Pursuant to the foregoing, the State shall implement a Mineral Management Plan that
22 provides the framework for the utilization and management of the country's mineral
23 resources, which will address the needs of the domestic economy and uphold the rights of
24 industry workers, indigenous peoples and local communities.

25

26 **SEC. 4.** – The judicious stewardship of our mineral resources, as well as its exploration,
27 development and utilization shall comply with the following principles:

- 28
- 29 a. The current export-orientation of mining is hereby reversed and a domestic needs-
30 based development of the industry shall be pursued by the State as a step towards
31 achieving genuine economic development;
- 32
- 33 b. The mining industry shall be geared towards national industrialization and shall be
34 built for the production of raw materials such as base metals, basic chemicals and
35 petrochemicals needed by the basic, medium and heavy industries to produce as
36 much consumer, intermediate and capital goods with the country's stock of finite
37 mineral and non-mineral industrial raw materials and in the process provide jobs to
38 the country's vast human resources;
- 39
- 40 c. The community shall actively participate in the stewardship of mineral resources.
41 Community-based initiatives shall be encouraged and supported;
- 42
- 43 d. The State and its members shall develop its human resources and encourage the
44 evolution of its own appropriate technologies. The State shall provide the appropriate
45 support and protection to Filipino corporations to further develop and increase their
46 participation in the industry. All mining industry investments shall be mutually-
47 beneficial and help achieve the specific target and goals of the National
48 Industrialization Program. To come up with the large capital requirement for mining,
49 the State must use local sources such as but not limited to the granting of incentives
50 and financial aid to local private sector investors, re-channeling of government
51 budget allocations for foreign debt payments and military expenditures, and the
52 proceeds from the government shares of the Malampaya Natural Gas Project;
- 53

- 1 e. The State shall allow, in exceptional cases, foreign corporations to invest in the
2 mineral industry. Based on the National Industrialization Program and the country's
3 capability and capacity, the government must identify the mineral areas where
4 foreigners can help and invest subject to rigorous screening and strict regulations as
5 provided in this Act and related laws. The participation of foreign companies in the
6 critical stages of minerals extraction and processing shall be in accordance with a
7 mandatory program or agreement for technology transfer and equity shares that do
8 not exceed 40 percent of the full capital requirements;
9
- 10 *Provided, That capital accumulation and reinvestment within the country shall be*
11 *primarily encouraged over profit repatriation by the foreign companies and that*
12 *foreign mining corporations, their principals, local firms and conduits that have a bad*
13 *track record in the Philippines are banned from investing in the country;*
14
- 15 f. In land and water use, the production of sufficient food free from pollution towards
16 food security shall always be the priority;
17
- 18 g. Long-term mining development shall be programmed by the State in accordance with
19 the country's availability of resources, capability and well being of the people,
20 technological capacity and people's acceptability. The right of Muslim Filipinos and
21 indigenous peoples to self-determination and ancestral domain shall be recognized
22 and their collective property rights are guaranteed by this Act;
23
- 24 h. Job security, adequate wages, benefits, and safe working conditions for mine workers
25 shall be ensured in state and privately owned mining corporations. Their right to
26 organize and form their own associations, to collective bargaining and to strike shall
27 be upheld. The state will strictly prohibit forced and child labor in the industry;
28
- 29 i. Small-scale mining operations shall be supported and regulated by the state. The state
30 will encourage the formation of cooperatives among small-scale miners and provide
31 financial and technical support to develop the labor-intensive and upgrade the
32 backward technologies into a more efficient and less environmentally destructive
33 mining process. Whenever small-scale mining are stopped, alternative and sustainable
34 livelihood shall be provided to the small-scale miners.
35
- 36 j. Mining operations shall not in any way create or exacerbate conflicts. In no instance
37 shall the Armed Forces of the Philippines (AFP), the Philippine National Police
38 (PNP) and private security and paramilitary groups be used to coerce or force the
39 entry and protection of mining operations;
40
- 41 k. Mining industry research and development shall focus on harnessing more
42 economically- efficient and less environmentally-destructive methods. The advanced
43 technologies from other countries that are proven to be appropriate locally shall be
44 adopted in the industry;
45
- 46 l. All mining operations shall be strictly regulated to ensure the domestic processing of
47 mineral ores up to the secondary and tertiary stages of industrial production to
48 develop our own basic and medium industries. Recycling programs and substitution
49 in the use of minerals shall be incorporated in the overall plan of mining
50 development to reduce mine waste and pollution, and mining rehabilitation
51 techniques. Indigenous technologies that are relevant and appropriate, particularly
52 with respect to the domestic processing of minerals shall be promoted, harnessed,
53 expanded and upgraded;
54

- 1 m. The State and its members shall share in the burden of satisfying the need for mineral
2 resources primarily through reusing and recycling existing mineral products.
3 Ecologically-sound practices at all stages of mining shall be promoted. Mining
4 technologies such as open-pit mining and submarine mine tailing disposal methods
5 that are banned abroad and/or proven inappropriate in countries like the Philippines
6 must all be banned. Environmental standards shall be set to ensure the protection
7 and efficient utilization of the country's mineral resource base. Ecological
8 considerations in mining development shall be given due emphasis and attention to
9 substantially eliminate destructive effects that certain mining industrial processes
10 might have on the people's health and the environment. Monitoring mechanisms with
11 strong participation from the local communities will be instituted;
12
- 13 n. Mining in environmentally-critical areas such as small island ecosystems, primary and
14 secondary forests and watersheds shall be banned. Dumping of mine wastes and
15 tailings to rivers, lakes and seas are prohibited; The integrity of the environment shall
16 not be compromised; and
17
- 18 o. Areas affected by mining shall be rehabilitated, including abandoned mines. Violators
19 shall be strictly punished and made to pay heavy compensation to the State and the
20 affected communities;
21

22 **SEC. 5.** – The exploration, development and utilization of natural resources must comply
23 with the principles of intergenerational responsibility.
24

25 **SEC. 6.** – For purposes of, or in relation to expropriation, it is hereby declared that mining
26 is not for a public purpose.
27

28 **SEC. 7.** – Mining agreements shall not be considered as vested rights, but, are mere privilege
29 that the State can grant or revoke anytime for a legitimate purpose.
30

31 **CHAPTER II** 32 **SCOPE AND GENERAL PRINCIPLES**

33 **SEC. 8. *Scope.*** – This Act shall govern the ownership, management and governance of
34 both metallic and non-metallic ore minerals onshore and offshore, as well as quarry
35 resources, sand and gravel, guano, and gemstones, and the conservation, exploration,
36 development, utilization, processing and transportation thereof. The ownership,
37 management and governance of petroleum, natural gas and coal shall be governed by special
38 laws. Offshore mining shall also be governed by special laws.
39

40 This Act shall cover onshore and offshore, large-scale and small-scale mining operations in
41 the country, including mining projects in ancestral domains in accordance to the existing
42 national and international policies on our indigenous peoples.
43

44 **SEC. 9.** – Ore minerals form part of the country's irreplaceable and non-renewable natural
45 wealth and capital. The conservation of our mineral wealth is a paramount public interest
46 and mineral resources shall be utilized only in a rational manner for national and local
47 development as specified by law and the National Industrialization Program and the Mineral
48 Management Plan. The economic benefits derived from mining shall be equitably distributed
49 by, among others, prioritizing development for local communities and all other stakeholders
50 directly affected by mining operations.
51

52 **SEC. 10.** – The State shall have primary role, responsibility and concern in the management,
53 conservation, utilization, and development of the mining industry and shall ensure the
54 peoples participation in policy making and implementation of the same at all levels of

1 government. The management of mineral resources shall be a shared concern and
2 responsibility among the national government, corporations, all levels of local government,
3 and the communities affected by the exploration, development, and utilization of mineral
4 resources.

5
6 **SEC. 11.** – The State shall accord support to communities dependent on small-scale mining
7 whose operations shall strictly adhere to the provisions of this law.

8
9 **SEC. 12.** – Subject to their right to self-determination, indigenous cultural communities/
10 indigenous peoples (ICCs/IPs) own and have the responsibility to manage the mineral
11 resources in their respective ancestral domains, free from external manipulation, interference,
12 force threat, intimidation, coercion and other analogous acts. The State shall support
13 indigenous cultural communities in developing capacities to effectively exercise their right
14 and responsibility.

15
16 **SEC. 13.** – Mining shall be limited in scale in accordance with this Act.

17
18 **SEC. 14.** – Mineral resources development, utilization and processing shall be reserved for
19 Filipino citizens and for Filipino corporations. Exploration shall be undertaken directly by
20 the State for the benefit of the nation.

21
22 **SEC. 15.** – Remining and recycling of mineral resources shall be prioritized over the
23 opening of new mines to maximize and recover the remaining minerals resources from the
24 rejects or wastes of previous mines and mining operations.

25
26 **SEC. 16.** – The State shall prioritize the rehabilitation of the abandoned mines in the
27 country. The State shall ensure the fullest compliance of all government and corporate
28 entities in and on the closure of mines, the rehabilitation/restoration of the immediate
29 environs or each mining project/activity in the country as provided by law.

30
31 **SEC. 17.** – The State shall encourage and support Filipino private corporations and mining
32 cooperatives to participate and invest in the mining industry on mutually-beneficial grounds
33 that will push forward the National Industrialization Program in both small-scale and large-
34 scale projects.

35
36 **SEC. 18.** – Mineral resource extraction shall be allowed based on the Philippine
37 Government's National Industrial Plan. The sharing of profits from mining activities,
38 including the anticipated environmental and social costs on the affected local communities
39 of each mining project, should far outweigh ecological and social benefits and costs from
40 other land uses. The anticipated cost of environmental and social impacts on the affected
41 local communities, which shall at all times be prevented and/or mitigated through the
42 allocation of sufficient funds for this purpose. In mining projects with foreign participation,
43 a just return of investment scheme for the foreign entrants into the industry shall be
44 prescribed by law.

45
46 **SEC. 19.** – The State shall prioritize the development of mineral resources needed for
47 national development and the creation of domestic processing capacity for industrial metals,
48 the integration of agricultural modernization and other labor-intensive downstream
49 industries. Mine planning shall be conducted to meet this principle.

1 The National Industrial Plan shall support national development based on the principles of
2 sustainable development and modernization of its economic base. This framework will
3 define minerals to be extracted, volume to be extracted and when to be extracted. This shall
4 be matched with the approved mining areas as identified by the Councils. These matched
5 areas are eligible for mining operations.

6 7 CHAPTER III 8 DEFINITION OF TERMS 9

10 **SEC. 20. *Definition of Terms.*** – As used in and for the purposes of this Act, the
11 following terms, whether used in singular or in plural form, shall mean:

- 12
13 1. *Abandonment* – the act of the contractor leaving a mine without rehabilitating the
14 affected areas or completing such rehabilitation despite the legal obligation to do
15 the same;
- 16
17 2. *Acid mine drainage* – the dissolution, mobilization and transportation of toxic
18 metals from rocks resulting from the chemical reaction of the acid-generating
19 minerals in rock and waste materials having high permeability to both air and
20 rainfall and other water inflows when land is opened up for mining and initiates
21 the chemical reaction, resulting to a perpetual machine of acid generation;
- 22
23 3. *Ancestral domains* – all areas generally belonging to indigenous cultural
24 communities/indigenous peoples (ICCs/IPs) comprising lands, inland waters,
25 coastal areas, and natural resources therein, held under a claim of ownership,
26 occupied or possessed by ICCs/IPs, by themselves or through their ancestors,
27 communally or individually since time immemorial, continuously to the present
28 except when interrupted by war, force majeure or displacement by force, deceit,
29 stealth or as a consequence of government projects or any other voluntary
30 dealings entered into by government and private individuals/corporations, and
31 which are necessary to ensure their economic, social and cultural welfare. It shall
32 include ancestral lands, forests, pasture, residential, agricultural, and other lands
33 individually owned whether alienable and disposable or otherwise, hunting
34 grounds, burial grounds, areas of worship, bodies of water, mineral and other
35 natural resources, and lands which may no longer be exclusively occupied by
36 ICCs/IPs but from which they traditionally and historically had access to for
37 their subsistence and traditional activities, particularly the home ranges of
38 ICCs/IPs who are still nomadic and/or shifting cultivators
- 39
40 4. *Ancestral lands* – lands occupied, possessed and utilized by individuals, families
41 and clans who are members of the ICCs/IPs by themselves or through their
42 predecessors-in-interest, under claims of individual or traditional group
43 ownership, continuously, to the present except when interrupted by war, force
44 majeure or displacement by force, deceit, stealth, or as a consequence of
45 government development aggression projects and other voluntary dealings
46 entered into by government and private individuals/corporations including, but
47 not limited to, residential lots, rice terraces or paddies, private forests, swidden
48 farms and tree lots;
- 49
50 5. *Beneficiation* – a process wherein a large fraction of the waste material is removed
51 from the mineral ore;
- 52

6. *Buffer Zones* – identified areas outside the boundaries of and immediately adjacent to designated protected areas designated by law that need special development control in order to avoid or minimize harm to the protected area;
7. *Bureau* – the Mines and Geosciences Bureau (MGB) under the Department of Environment and Natural Resources (DENR);
8. *Carrying capacity* – the capacity of natural and human environments to accommodate and absorb change without experiencing conditions of ecological instability and attendant degradation;
9. *Certificate of Ancestral Domains Title (CADT)* – title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with law;
10. *Certificate of Ancestral Lands Title (CALT)* – a title formally recognizing the rights of ICCs/IPs over their ancestral lands;
11. *Closure of mines* – permanent cessation of operations at a mine or mine processing site after completion of the decommissioning process;
12. *Consensus* – the decision communally reached after appropriate participatory consultation and discussion, free from any external manipulation, interference and coercion, and other analogous cases and obtained after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable to the community or group.
13. *Consent* – the free, prior and informed assent of the relevant person/s, ICCs/IPs, barangay assemblies, landowner or occupant or possessor, given after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable to said persons or communities or assemblies;
14. *Contract area* – the area delineated as specifically provided by a mineral agreement for the development or utilization of mineral resources found therein;
15. *Critical watershed* – refers to a drainage area of a river system, lake or water reservoir supporting existing and proposed hydroelectric power, domestic water supply, geothermal power and irrigation works, which needs immediate rehabilitation and protection to minimize soil erosion, improve water yield and prevent possible flooding. The term shall also include areas which are traditional human settlements, land-uses, or sea-uses which are representative of a culture/cultures, or human interaction with the environment especially when it has become vulnerable under the impact of irreversible change;
16. *Critical habitats* – place or environment where species or subspecies naturally occur or has naturally established its population that are crucial to the survival of a species and essential for its conservation;
17. *Cultural sites* – those that bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared or, directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance;

- 1 18. *Customary laws* – body of written and/or unwritten rules, usages, customs and
2 practices traditionally recognized, accepted and observed by respective ICCs/IPs
3 and local communities;
4
- 5 19. *Decommissioning* – the activity or process that begins after cessation of prospecting
6 activities or mineral production (including metallurgical plant production). It
7 involves, among others, the removal of unwanted infrastructure, making
8 excavations and waste repositories safe and stable and surface rehabilitation with
9 a view to negate or minimize any adverse environmental impacts remaining after
10 cessation of mineral production. It includes the after-care or maintenance that
11 may be needed;
12
- 13 20. *Downstream industries* – are mining activities that cover minerals processing,
14 refining, manufacturing of intermediate and capital goods and marketing of
15 such;
16
- 17 21. *Ecological profile or eco-profile* – geographic-based instruments for planners and
18 decision-makers which present an evaluation of the environmental quality and
19 carrying capacity of an area and measures the specific interactions that will be
20 affected by any and all mining operations;
21
- 22 22. *Exploration* – covers the methods of searching or prospecting for mineral
23 resources by non-invasive means for the purpose of determining the existence,
24 extent, quantity and quality thereof, which may include but not limited to seismic,
25 gravity, magnetic, electromegnetic, radar, induced polarization, radio-wave and
26 electrogeochemical;
27
- 28 23. *Extraction* – ore-removal activities that take place at the mine site itself;
29
- 30 24. *Free, prior, and informed consent (FPIC)* – the consensus of all members of the
31 ICCs/IPs to be determined in accordance with their respective customary laws
32 and practices, free from any external manipulation, interference, coercion, and
33 other analogous acts and obtained after fully disclosing the intent and scope,
34 including the positive and negative impacts, of all the activities, in a language and
35 process understandable and acceptable to the community;
36
- 37 25. *Indigenous peoples/Indigenous cultural communities (IP/ICC)* – refer to a group of
38 people or homogenous societies identified by self-ascription and ascription by
39 others, who have continuously lived as organized community on communally
40 bounded and defined territory, and who have, under claims of ownership since
41 time immemorial, occupied, possessed and utilized such territories, sharing
42 common bonds of language, customs, traditions and other distinctive cultural
43 traits, or who have, through resistance to political, social and cultural inroads of
44 colonization, non-indigenous religions and cultures, became historically
45 differentiated from the majority of Filipinos. ICCs/IPs shall likewise include
46 peoples who are regarded as indigenous on account of their descent from the
47 populations which inhabited the country, at the time of conquest or colonization,
48 or at the time of inroads of non-indigenous religions and cultures, or the
49 establishment of present state boundaries, who retain some or all of their own
50 social, economic, cultural and political institutions, but who may have been
51 displaced from their traditional domains or who may have resettled outside their
52 ancestral domains. They are peoples who have a spiritual relationship with the
53 land;
54

- 1 26. *Indigenous political structure* – refers to organizational and cultural leadership
2 systems, institutions, relationships, patterns and processes for decision-making
3 and participation, identified by ICCs/IPs such as, but not limited to, Council of
4 Elders, Council of Timuays, Bodong Holders, and any other tribunal or body of
5 similar nature;
6
- 7 27. *Joint venture agreement* – an agreement wherein the government and a qualified
8 person organize a joint-venture company, with both parties having equity shares,
9 to develop and manage mineral resources. Aside from earnings on the equity, the
10 Government shall be entitled to a share in the output computed at a certain
11 percentage mutually agreed upon by and beneficial to both parties.
12
- 13 28. *Key biodiversity areas* – are sites of global biodiversity conservation significance.
14 They are defined by standardized criteria and thresholds to guide conservation
15 interventions such as the establishment of protected areas;
16
- 17 29. *Large-scale mining* – mining in areas with more than twenty (20) hectares, using
18 mechanized tools and equipment, requiring considerable capital and having large-
19 scale environmental, social, cultural and economic impacts with regard to
20 resource use and/or consumption;
21
- 22 30. *Mineral agreement* – a contract entered into by the government, in behalf of the
23 State, and a private Filipino person, granting such person/s the privilege to mine
24 a specific contract area;
25
- 26 31. *Mineral resource* – any concentration of minerals/rocks with potential economic
27 value;
28
- 29 32. *Mineral processing* – the milling, beneficiation or upgrading of ores or minerals and
30 rocks or by similar means to convert the same into marketable products;
31
- 32 33. *Minerals* – all naturally occurring inorganic substance in solid, gas, liquid, or any
33 intermediate state excluding energy materials such as coal, petroleum, natural gas,
34 radioactive materials, and geothermal energy;
35
- 36 34. *Mine development* – preparing the mine site for production by shaft sinking or pit
37 excavation building of access roads, and constructing of surface facilities;
38
- 39 35. *Mine wastes and tailings* – rock materials from surface or underground mining and
40 milling operations with little or no economic value to the generator of the same;
41
- 42 36. *Mining activity* – any or all of the following activities: exploration, extraction,
43 utilization, processing, transportation and other activities conducted for the
44 same;
45
- 46 37. *Mining area* – a portion of the contract area which has been identified by the
47 contractor wherein actual mining operations are conducted;
48
- 49 38. *Mining operations* – either all or any of the mining activities involving exploration,
50 feasibility, development, utilization, and processing;
51
- 52 39. *National industrialization* – in the mining industry, this shall denote the primacy of
53 mineral production, processing and distribution for the primary benefit of the
54 domestic economy. This includes creating favorable conditions for Filipino

entrepreneurs to engage in mining through various state-private agreements that shall ensure that mining shall help spur more domestic investments, increase agricultural production and produce both consumer and producer goods and manufactures;

40. *National park* – an area of the public domain essentially natural wilderness, scenic, or historic in character which has been withdrawn from settlement, occupancy, or any form of exploitation except in conformity with an approved management plan and set aside exclusively to conserve the area or preserve the scenery, the natural and historic objects, wild animals, and plants therein mainly for the purpose of biodiversity conservation and/or human enjoyment;
41. *Natural forest* – forests composed of indigenous trees, not planted by man, whose structure, functions, and dynamics have been largely the result of natural succession processes;
42. *Natural parks* – is a relatively large area not materially altered by human activity where extractive resource uses are not allowed. These parks are maintained to protect outstanding natural and scenic areas of national or international significance for scientific, educational and recreational use;
43. *Open-pit mining* – Extracting metal ores and minerals that lie near the surface by removing the overlying material and breaking and loading the ore. Also known as open-cast mining and open-cut mining;
44. *Ore* – a material that contains minerals in such quantities that it can be mined and worked commercially to extract that mineral. The mineral is usually contained in chemical combination with some other element in addition to various impurities;
45. *Pollution control and infrastructure devices* – infrastructure, machinery, equipment and/or improvements used for impounding, treating, or neutralizing, precipitating, filtering, conveying and cleansing mine industrial waste and tailings as well as eliminating or reducing hazardous effects of solid particles, chemicals, liquids or other harmful by-products and gases emitted from any facility utilized in mining operations for their disposal;
46. *Private land* – any land belonging to any private person which includes alienable and disposable land being claimed by a holder, claimant, or occupant who has already acquired a vested right thereto under the law, although the corresponding certificate or evidence of title or patent has not been actually issued;
47. *Processing* – includes all treatment an ore receives after its extraction and beneficiation, which involves changes in the chemical nature of the mined minerals;
48. *Progressive rehabilitation* – rehabilitation which involves the staged treatment of disturbed areas during exploration, construction/development and mining operations;
49. *Protected areas* – identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation;

- 1 50. *Protected landscapes, seascapes, marine sanctuaries* – areas of national significance which
2 are characterized by the harmonious interaction of man and the environs while
3 providing opportunities for public enjoyment through recreation and tourism
4 within the bounds of the normal lifestyle and economic activity of these areas;
5
- 6 51. *Quarry resources* – any common rock or other mineral substances as the Director
7 of the Mines and Geosciences may declare to be quarry resources such as, but
8 not limited to, andesite, basalt, conglomerate, coral sand, diatomaceous earth,
9 diorite, decorative stones, gabbro, granite, limestone, marble, marl, red burning
10 clay for potteries and bricks, rhyolite, rock phosphate, sandstone, serpentine,
11 shale, tuff, volcanic cinders, and volcanic glass, Provided, That such quarry
12 resources do not contain metals or metallic constituents and /or other valuable
13 minerals in economically workable quantities; Provided further, That non-
14 metallic minerals such as kaolin, feldspar, bull quartz, quartz or silica, sand and
15 pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite,
16 mica, precious and semi-precious stones, and other non-metallic minerals that
17 may later be discovered and which the Director declares the same to be of
18 economically workable quantities, shall not be classified under the category of
19 quarry resources;
20
- 21 52. *Quarrying* – process of extracting, removing and disposing quarry resources
22 found on or underneath the surface of private or public land;
23
- 24 53. *Regional Director* – the regional director of any mines regional office;
25
- 26 54. *Regional Office* – any of the mines regional offices;
27
- 28 55. *Recycling* – shall refer to the treating of used or waste materials through a process
29 of making them suitable for beneficial use and for other purposes, and includes
30 any process by which solid waste materials are transformed into new products in
31 such a manner that the original products may lose their identity, and which may
32 be used as raw materials for the production of other goods or services: *Provided,*
33 That the collection, segregation and re-use of previously used packaging material
34 shall be deemed recycling under the Act;
35
- 36 56. *Rehabilitation* – the process by which the land will be returned to a form and
37 productivity in conformity with a prior land use plan including a stable ecological
38 state that does not contribute substantially to environmental deterioration and is
39 consistent with surrounding aesthetic values;
40
- 41 57. *Remediation* – removal of pollution or contaminants from environmental media
42 for the general protection of the area and the people;
43
- 44 58. *Remining* – maximizing and recovering the remaining minerals from the rejects or
45 wastes of previous mines and mining operations;
46
- 47 59. *Restoration* – where the intent is to recreate an ecosystem as close as possible to
48 the original which existed at the site, with most of the structure and productivity
49 matching that of the original ecosystem, and most of the original biodiversity: in
50 time ecological processes and functions will match those of the original forest;
51
- 52 60. *Self-determination* – refers to the right of a people to determine its own political
53 destiny as defined by existing Philippine laws. The right to self-determination has
54 includes the right of ICCs/IPs to choose their form of government within

existing national borders to achieve a greater degree of autonomy to help preserve their culture, ancestral domain, and way of life;

61. *Small-scale mining* – mining activities which rely heavily on manual labor using simple implements and methods and do not use explosives or any heavy mining equipment, primarily engaged in for sustainable living. Impacts from small-scale mining shall not be large-scale, otherwise, the mining activity shall be defined as large-scale mining;
62. *Small-scale mining permit* – permit issued for small-scale mining;
63. *Strategic minerals* – minerals needed for national industrialization, including rural development;
64. *Tailings Disposal System or Tailings Placement* – the method wherein the waste from mining operations are dumped, placed, or disposed;
65. *Traditional small-scale mining* – small-scale mining using traditional means and without the use of chemical or mechanized extraction and separation means, methods, implements, and/or equipment;
66. *Watershed continuum* – shall refer to an area consisting of the watershed and its divide including its connection from the headwaters to the reef or a land area drained by a stream or a fixed body of water and with tributaries having a common outlet for surface runoff. It is the system by which the mining-affected communities shall be determined following the drainage of a stream or fixed body of water with tributaries having a common outlet for surface runoff;
67. *Wildlife* – undomesticated forms and varieties of flora and fauna.

CHAPTER IV OWNERSHIP AND GOVERNANCE

SEC. 21. Authority of the Bureau. – The Mines and Geosciences Bureau shall be a scientific research institution under the Department of Environment and Natural Resources (DENR) primarily conducting and developing research of mineral resources and mining technologies and training of local communities, local government units and indigenous peoples. It shall also regulate the operations of persons involved in mining activities. It shall also work with the Multi-Sectoral Mineral Council in the monitoring of mining activities.

SEC. 22. Regional offices. – The Bureau shall have as many regional offices in the country as may be established by the Secretary, upon the recommendation of the Director.

SEC. 23. Bureau as repository of information. – The Bureau shall be the central repository of information regarding mineral lands, resources, permits, studies and other information relevant to the operation of a mine, including the necessary requirements which a contractor is obliged to submit. All other governmental offices and other bodies created under this Act shall copy furnish the Bureau of all other information related to mining.

SEC. 24. Recording system. – There shall be established a national and regional filing and recording system. A mineral resource database system shall be set up in the Bureau which shall include, among others, a mineral rights management system.

SEC. 25. Publication. – The Bureau shall publish at least annually a mineral gazette of

1 nationwide circulation containing among others, a current list of mineral rights, their
2 locations specified in the appropriate map, mining rules and regulations, other official acts
3 affecting mining, and other information relevant to mineral resources development. A
4 system of publication fund shall be included in the regular budget of the Bureau.

5
6 **SEC. 26. *Bureau to conduct exploration activities.*** – Exploration of mineral resources
7 shall be exclusively and directly undertaken by the State through the Bureau. In no case shall
8 this function be delegated or contracted out to private corporations or persons.

9
10 **SEC. 27. *Non-invasive exploration.*** – Exploration activities shall only be non-invasive
11 such as seismic, gravity, magnetic, electromagnetic, radar, induced polarization, radio-wave
12 and electro-geochemical.

13
14 **SEC. 28. *Consent.*** – The Bureau shall not conduct any exploration activity without the free,
15 prior and informed written consent of relevant land owner, possessor and/or occupant; the
16 affected communities; and/or of the ICC/IP. Neither shall the Bureau enter into any part of
17 the ancestral domains/lands of ICCs/IPs without their free and prior informed consent.
18 Further, the Bureau shall not enter into any distributed land under the Comprehensive
19 Agrarian Reform Program within the 10 years prohibited period of the said program.

20
21 **SEC. 29. *Ownership of ICCs/IPs.*** – The mineral resources within ancestral
22 domains/ancestral lands are the collective private property of the indigenous cultural
23 communities/indigenous peoples (ICCs/IPs) as provided by law. The management of such
24 mineral resources shall build on the indigenous knowledge systems and practices of the
25 ICCs/IPs.

26
27 **SEC. 30. *Free, prior, and informed consent.*** – No mining activity shall be conducted
28 within the ancestral domains/lands of ICCs/IPs without their free, prior, and informed
29 consent (FPIC), in addition to the conditions set forth under the succeeding sections of this
30 Act.

31
32 **SEC. 31. *When ancestral domain is not formally recognized.*** – When ancestral domain
33 is not covered by a Certificate of Ancestral Domain Title/Certificate of Ancestral Land Title
34 (CADT/CALT), or is covered by a different title issued in favor of members of the
35 ICCs/IPs, mineral resources shall nevertheless be managed by the ICCs/IPs concerned
36 when it can be presumed that the area is part of ancestral domain. An area is presumed to
37 be part of ancestral domain by virtue of historic rights and self-delineation by the ICCs/IPs.

38
39 **SEC. 32. *When ICCs/IPs displaced from ancestral domain, and when ancestral***
40 ***domain is already covered by other titles emanating from the State other than***
41 ***CADT/CALT.*** – IP/ICC rights over ancestral domain subsists notwithstanding the fact
42 that the ICCs/IPs who hold such rights have been displaced therefrom or that such ancestral
43 domains have been occupied by other persons or corporations under another claim of title
44 emanating from the State. In such cases, ICCs/IPs shall continue to own such mineral
45 resources.

46
47 **SEC. 33. *Questions on the validity of FPIC.*** – In instances that there are questions on
48 the legality or validity of the issued free, prior, and informed consent, mining operations
49 shall not be allowed to be conducted in the ancestral domains or lands of the ICCs/IPs
50 without the final resolution of such question on the legality or validity of the FPIC.

51
52 **SEC. 34. *Ownership of the State.*** – The mineral resources found outside ancestral
53 domains/lands shall be owned by the State. The State shall ensure that the management of
54 mineral resources shall be primarily for the benefit of the local communities in whose

territory the same shall be found. Any minerals extracted shall be solely used for local industries consistent with the Minerals Management Plan. The State may directly undertake development, utilization and processing of mineral resources or it may enter into mineral agreements with eligible parties pursuant to the provisions of this Act.

SEC. 35. *Inventory of mineral resources.* – The Bureau shall identify and provide an inventory of the available mineral resources, including the mine tailings and wastes within the country. It shall submit to the DENR a report which shall contain the following information:

- a. the classification of minerals;
- b. the quality and grade of the ore;
- c. the potential mine life;
- d. the geological description of the area;
- e. the economic viability of mine tailings;
- f. whether the area is a key biodiversity area or if it is a critical habitat; and
- g. all other relevant information necessary for potential mineral investments.

The process for mineral exploration and/or approval for a mining permit shall not commence without the said inventory.

SEC. 36. *Identification of strategic minerals.* – The Bureau shall conduct researches and studies prior to any mining operations to identify strategic mineral resources. Only mineral resources that shall be needed for local industries, agricultural modernization and rural development shall be opened to mining subject to the implementing rules and regulations of this Act.

SEC. 37. *Demarcation of mineral areas.* – The Bureau shall demarcate the boundaries of all areas identified as containing commercial quantities of mineral resources on the ground.

SEC. 38. *Baseline information on watershed continuums.* – The baseline information on all watersheds in the country shall be required and made available to the public, online as much as possible. No mining permit shall be issued without this baseline information.

SEC. 39. *Affected local community and local government unit.* – For the purposes of this Act, the affected local community and the affected local government unit are defined in relation to the watershed continuum which is potentially negatively impacted by mining operation in the demarcated area. The local communities and the local government units therefore are those who are dependent on the watershed eco-system and its resources.

SEC. 40. *Establishment of Multi-Sectoral Mineral Councils.* – A Multi-Sectoral Mineral Council shall be established for the purposes of this Act. There shall be as many Multi-Sectoral Mineral Councils as there are watershed continuums with demarcated mineral areas.

SEC. 41. *Powers of the Council.* – The Council shall have the following powers, among others:

- a. To determine whether or not mining operations shall be allowed;
- b. To deliberate on proposals for mineral agreements;
- c. To approve the proposal for mineral agreements;
- d. To monitor the conduct of mining operations; and
- e. To establish its internal rules of procedure which are not contradictory to this Act.

1 **SEC. 42. *Composition of the Multi-Sectoral Mineral Council.*** – The Multi-Sectoral
2 Mineral Council shall be composed of representatives from the Bureau, one representative
3 from each of the affected provincial governments/independent component cities/highly
4 urbanized cities, representatives from peoples/community/sectoral/non-governmental
5 organizations as many as the representatives of local government units, and the affected
6 ICCs/IPs within the watershed continuum. The Bureau shall be the convenor of the
7 Council.

8
9 No mining operations shall be allowed without the Council having been properly convened.

10
11 **SEC. 43. *Areas open to mining.*** – The Council shall have the power to determine whether
12 or not the land where mineral resources are found shall be opened to mining. Areas may
13 only be opened to mining upon the vote of two-thirds of all the members of the Council
14 pursuant to the guidelines provided by this Act. In determining whether or not such area
15 shall be opened, the following shall be required:

- 16
17 a. Report of the Bureau on the conducted exploration;
18 b. Existence of downstream industries for the mineral resources;
19 c. Potential environmental impacts;
20 d. Potential cultural impacts;
21 e. Conflict and risk assessment;
22 f. Potential health impacts;
23 g. Potential economic benefits of the development and utilization of the minerals;
24 h. Carrying capacity and the ecological profile of the area;
25 i. Existing and alternative land uses of the area; and
26 j. Local government land use plan.

27
28 No mining application shall be allowed unless an environmental economic audit or resource
29 valuation of the proposed mining area has been conducted or prepared applying acceptable
30 valuation standards. This audit or resource valuation shall be conducted in coordination with
31 multisectoral group of experts and community stakeholders. It shall include determination
32 of the expected economic returns and the potential negative impacts from mining on the
33 enjoyment and exercise of human rights, cultural rights, and on peace and security. A
34 detailed study must mention the flora, fauna and environment present in the mining claim
35 and the impact of mining operations on the environment, the possible environmental
36 degradation and the attendant loss of subsistence resources cause. There must be mention
37 of existence of sacred areas or areas otherwise of cultural significance and address the
38 impacts of resource exploitation on indigenous peoples and local communities.

39
40 This information shall be accessible to the public at all times. *Provided* That in no case shall
41 the Council open the following areas to mining:

- 42
43 a. Areas declared by Local Government Units as No-Mining Zones as specified by
44 local ordinances, and other issuances;
45 b. Densely populated areas, especially residential areas;
46 c. Head waters of watershed areas;
47 d. Areas with potential for acid mine drainage;
48 e. Critical watersheds;
49 f. Critical habitats;
50 g. Climate disaster-prone areas;
51 h. Geohazard areas;
52 i. Small island ecosystems;
53 j. Cultural sites, which may include, but not limited to, sacred sites and burial grounds;
54 k. Traditional swidden farms and hunting grounds;

- 1 l. Lands covered by the Comprehensive Agrarian Reform Law or Republic Act No.
- 2 6657, as amended;
- 3 m. Prime agricultural lands, irrigable and irrigated lands as defined by Republic Act No.
- 4 9700;
- 5 n. Cultural property enumerated under the National Cultural Heritage Act of 2009 or
- 6 Republic act No. 10066;
- 7 o. Community sites;
- 8 p. Key biodiversity areas;
- 9 q. High conflict areas;
- 10 r. The Province of Palawan pursuant to Republic Act No. 7611 and other areas
- 11 covered by local ordinances;
- 12 s. In military and other government reservations, except upon prior written clearance
- 13 by the government agency/agencies concerned;
- 14 t. Near or under public or private buildings, cemeteries, archaeological and historic
- 15 sites, bridges, highways, waterways, railroads, reservoirs, dams or other
- 16 infrastructure projects, public or private works including plantations or valuable
- 17 crops, except upon written consent of the government agency/agencies or private
- 18 entity concerned;
- 19 u. In areas expressly prohibited by law or ordinances;
- 20 v. In areas covered by small-scale miners as defined by law unless with prior consent
- 21 of the small-scale miners, in which case a royalty payment upon the utilization of
- 22 minerals shall be agreed upon by the parties, said royalty forming a trust fund for
- 23 the socioeconomic development of the community concerned; and
- 24 w. Old growth, natural or primary and secondary forests, watershed forest reserves,
- 25 wilderness areas, mangrove forests, mossy forests, national parks, protection forests,
- 26 provincial/municipal forests, parks, greenbelts, game refuges and bird sanctuaries
- 27 and their respective buffer zones prohibited under the National Integrated
- 28 Protected Area System (NIPAS) under Republic Act No. 7586, Department
- 29 Administrative Order No. 25, series of 1992 and other laws and ordinances and
- 30 those expressly prohibited by other laws.
- 31

32 The determination whether or not the same are absolutely closed to mining shall not only be
33 limited to the existence of a law or ordinance declaring it as protected areas, but also to the
34 actual use of said area.

35
36 **SEC. 44. *Process of determination for opening an area to mining.*** – After the
37 submission of the exploration report and the resource valuation report, the Bureau shall
38 convene the Council. The Council shall thereafter convene their respective constituents to
39 determine whether or not their respective territories shall be opened for mining.

40
41 Sections 26 and 27 of the Local Government Code on consultation and consent shall be
42 strictly adhered to. Local government units at all levels shall conduct mandatory public
43 hearings with the affected local communities, to be carried out within their respective
44 territories and presenting those enumerated under Section 41.

45
46 The decision of the respective Sanggunians of all the local government units in the
47 watershed continuum shall be made in accordance to the sentiment of the peoples of the
48 local government unit as a result of the consultations conducted.

49
50 *Provided,* That each Sangguniang Barangay within the watershed continuum shall convene
51 their respective barangay assemblies for the purpose of this section. Local government units
52 shall ensure that the Bureau shall comprehensively explain the goals and objectives of the
53 project or program, its negative and positive impact upon the people and the community in
54 terms of environmental or ecological balance, and the measures that will be undertaken to

1 prevent or minimize the adverse effects thereof. The free prior and informed consent of all
2 barangay assemblies within the watershed continuum shall be a condition precedent for any
3 mining activity.

4
5 *Provided further,* That no mining activity shall be approved by the council without the free and
6 prior informed consent of all indigenous peoples within the watershed continuum.

7
8 For the purposes of declaring that an area is open for mining, the Council shall ensure that
9 all the requisites under Section 41 and 42 have been complied with.

10
11 *Provided finally,* That any member of the community may file a protest with the Council
12 during the period of consultations and deliberations for the Council's consideration.

13
14 **SEC. 45. Violation of Section 54.** – Local government officials who are administratively
15 found to violate the preceding section and Section 54 of this Act vis-à-vis the pertinent
16 sections of the Local Government Code shall be removed from office and perpetually
17 disqualified from holding any elective or appointive position in government, its divisions,
18 subsidiaries and any government owned and controlled corporations.

19
20 **SEC. 46. Pool of consultants.** – There shall be a pool of independent consultants that may
21 assist the local government units, local communities or ICCs/IPs with regard to the
22 technical aspects of mining.

23
24 **Section 47. Publication, posting and radio announcement requirements.** The decision
25 of the Council shall be published by the Bureau in the local newspaper in the local language,
26 shall be announced on the local radio programs for not less than six (6) weeks and notices
27 shall be distributed widely in communities. The notice containing relevant information shall
28 likewise be posted in conspicuous places for the information of the general public and shall
29 be announced during the local market day.

30
31 **CHAPTER V**
32 **MINERAL AGREEMENTS**
33

34 **SEC. 48. Modes of mineral agreement.** – A mineral agreement may only take the
35 following forms as herein defined;

- 36
37 a. *Mineral production sharing agreement* – is an agreement where the Government grants
38 to the contractor the exclusive right to conduct mining operations within a contract
39 area and shares in the gross output. The contractor shall provide the financing,
40 technology, management and personnel necessary for the implementation of this
41 agreement;
- 42
43 b. *Co-production agreement* – is an agreement between the Government and the
44 contractor wherein the Government shall provide inputs to the mining operations
45 other than the mineral resource; and
- 46
47 c. *Joint venture agreement* – is an agreement where a joint-venture company is organized
48 by the Government and the contractor with both parties having equity shares.
49 Aside from earnings in equity, the State shall be entitled to a share in the gross
50 output.

51
52 In no case shall Financial or Technical Assistance Agreements, or any other similar
53 agreements, contracts, and/or executive issuances granting license or permission to explore,
54 develop and/or utilize mineral resources be awarded to foreign entities or persons.

1
2 **SEC. 49. *Eligibility.*** – Only Filipino citizens or corporations sixty percent (60%) of whose
3 equity is owned or controlled by such citizens shall be allowed to conduct development,
4 utilization and processing of mineral resources within the country.
5

6 **SEC. 50. *Identification of mining projects.*** – With the vote of two-thirds of all the
7 members of the Council, to open areas for mining operations, the Bureau shall prepare the
8 necessary information sheets on the said area for potential investments. The Bureau shall call
9 for proposals to develop the mining area based on the Mineral Management Plan.
10

11 **SEC. 51. *Pre-screening of mining proposals.*** – Mining proposals shall be pre-screened
12 by the Bureau according to the National Industrialization Program and Mineral Management
13 Plan upon the submission of interested parties of the following:
14

- 15 a. demonstration of financial capability;
- 16 b. proven social and environmental track record, including those of its officers and
17 directors;
- 18 c. clear corporate structure and ownership;
- 19 d. proof of physical office and operations of the proponent within the Philippines;
- 20 e. identification of potential investors;
- 21 f. mining project feasibility;
- 22 g. mining operation work plan;
- 23 h. proposed operation, mitigation and prevention methods and/or equipment;
- 24 i. capacity to process minerals;
- 25 j. intent to develop downstream industries;
- 26 k. intent to contribute to local community development; and
- 27 l. Submission of the Environmental and Social Impact Assessment and Mitigation
28 Plan
29

30 The Council shall fix the minimum capitalization that any bidder must satisfy based on its
31 determination of the expected economic returns and the potential negative impacts from
32 mining, upon reference to an independent study proposing such minimum capitalization.
33

34 **SEC. 52. *Environmental and Social Impact Assessment and Mitigation Plan.*** – The
35 contractor shall submit an Environmental and Social Impact Assessment and Mitigation
36 Plan (ESIAMP) containing the means, methods, processes and schedule by which the
37 contractor shall conduct its operations and mitigate negative environmental and social
38 impacts. Social impact shall include possible impacts on the enjoyment and exercise of
39 human rights, cultural rights. The ESIAMP shall include plans relative to mining operations;
40 the rehabilitation, regeneration and restoration of mineral areas; slope stabilization of mined
41 out and tailings covered areas; aquaculture, watershed development and water conservation;
42 the relocation and return of displaced population; and provisions for alternative livelihood
43 and socioeconomic development.
44

45 The ESIAMP shall also contain a Social Development Plan which shall likewise contain the
46 plans of the proponent for the development of the community through the establishment
47 of infrastructures and programs that shall be sustainable even after the closure of the mine.
48

49 **SEC. 53. *Pre-qualification.*** – The Bureau shall thereafter identify the top three (3)
50 proposals and shall recommend the same to the Council for deliberation.

1 **SEC. 54. *Deliberation of the proposals.*** – Pre-conditions provided in Section 45 on the
2 free, prior and informed consent of persons, landowners, possessors or occupants,
3 communities or barangay assemblies, IPs/ICCs, and/or local Sanggunians shall likewise be
4 required under this Section.

5
6 **SEC. 55. *Posting and publication requirement.*** – After notice, the Bureau shall notify the
7 proponent of the accepted proposal and cause the publication and posting of the accepted
8 proposal.

9
10 *Provided,* That any member of the community may contest the decision of the Council within
11 six (6) weeks upon the posting and publication of notice of the acceptance of the proposal
12 in the manner provided in Section 44. No mining operations shall be allowed to be
13 conducted pending any action questioning the legality or validity of the proposal.

14
15 **SEC. 56. *Issuance of the permit.*** – After six (6) weeks from the date of the posting and
16 publication, if no contest is filed, the Bureau shall issue a permit in accordance with the
17 decision of the Council on the winning proposal.

18
19 **SEC. 57. *Environmental and Social Impact Compliance Certificate.*** – The mining
20 proponent shall be issued an Environmental and Social Impact Compliance Certificate by
21 the Bureau with the approval of the Council.

22
23 *Provided,* That no amendments to the conditions of the Certificate shall be allowed, unless
24 such proposed amendment shall work for the benefit of the communities, and in which case,
25 the Council and the Bureau shall be notified of any amendments to the ESIAMP and that
26 the former should give their consent to the same, after the proponent explaining in detail the
27 reason for such amendment and the possible impacts and consequences of these
28 amendments.

29
30 *Provided further,* That any violation of the ESIAMP shall cause the cancellation of the
31 Certificate.

32
33 **SEC. 58. *Maximum areas for mineral agreements.*** – The maximum area under mineral
34 agreements that a person can hold at any one time shall be determined by the Council.

35 *Provided,* That the contract area per agreement shall not exceed five hundred (500) hectares;

36
37 *Provided further,* That no person shall be awarded in excess of the total contract area of seven
38 hundred-fifty (750) hectares in any given watershed area. For the purposes of this Act, the
39 prohibition on the maximum area shall also include corporations that shall have common
40 directors or significant shareholders.

41
42 **SEC. 59. *Term of mineral agreement.*** – The term of the mineral agreement shall be
43 equivalent to the mine life plus an additional five (5) years for the rehabilitation of the
44 mining area. *Provided,* That in no case shall a Mineral Agreement have a term beyond fifteen
45 (15) years. *Provided further,* That the contractor shall already include rehabilitation/remediation
46 of the mining area within the ten-year term.

47
48 In no case shall a Mineral Agreement be extended without just cause to be determined by
49 the Council, *Provided,* That the extension shall not cause the term of the agreement to exceed
50 the fifteen (15) year term mentioned in the preceding section. *Provided further,* That for the
51 purposes of this Act, just cause shall mean acts or events resulting from war, force majeure
52 or those beyond the control of the mining proponent not attributable to the same.

1 *Provided finally,* That in no case shall mineral agreements be renewed after the expiration of
2 the fifteen-year period.
3

4 **SEC. 60. *Prohibition on open-pit mining method and submarine tailings disposal.*** –
5 Open-pit mining method for the extraction of mineral ores and the submarine tailings
6 disposal method shall be prohibited.
7

8 **SEC. 61. *Failure to initiate mining operations.*** – Failure to commence the development
9 stage of the mining operations in accordance with the work program within two (2) years
10 from the award of the mineral agreement shall cause the cancellation of the mineral
11 agreement. The contractor thereafter forfeits the value of the improvements made upon the
12 land. The contractor and other corporations who are also run by the same directors and
13 officers are thereafter banned from bidding to conduct mining operations for ten (10) years
14 after failure to commence the development stage of the mining operations in accordance
15 with the work program.
16

17 **SEC. 62. *Mandatory consultations in each mining phase.*** – Mandatory consultations
18 with affected persons and communities shall be undertaken in each phase of mining
19 operation: exploration, extraction, processing, and mine closure to ensure that the peoples
20 shall be informed of the proposed plans and methods that are proposed to be conducted.
21

22 **SEC. 63. *FPIC on each stage of mining operation.*** – The free and prior informed
23 consent of the ICCs/IPs, the barangay assemblies, and private landowners, possessors,
24 occupants shall be required at each and every stage of the mining operations.
25

26 As to ICCs/IPs, their free and prior informed consent shall be secured in accordance with
27 their laws, practices and processes. Violation of any of the conditions imposed by the
28 ICCs/IPs on the contractor shall cause the cancellation of the mineral agreement. Included
29 in this process is the explanation of the rights of ICCs/IPs of ownership and self-
30 determination.
31

32 **SEC. 64. *Multi-partite monitoring.*** – The Council shall form a multi-partite monitoring
33 team to monitor compliance by the contractor of the terms and conditions of the mineral
34 agreement. It may conduct ocular inspections of the contract area at any time of the day
35 and night. It shall also inspect all the books of contractors and refer the same to
36 independent auditors. The Multi-partite monitoring team and/or the Bureau may confiscate
37 surety, performance and guaranty bonds posted through an order to be promulgated by the
38 Director. The Council, the Director or the local government authorities may deputize, when
39 necessary, any member or unit of the Philippine National Police, barangay, duly registered
40 nongovernment organization (NGO) or any qualified person to police any and all mining
41 activities.
42

43 **SEC. 65. *Withdrawal from the mineral agreement.*** – The contractor may withdraw from
44 the mineral agreement at any time for justifiable cause with one (1) month's notice to the
45 Bureau, the Council and/or the ICCs/IPs, and other government agencies as may be
46 provided by law. The Council, in cooperation with other concerned government agencies,
47 shall issue a clearance for withdrawal upon certifying that the contractor has complied with
48 all its legal obligations, including the appropriate measures for mine closure and
49 rehabilitation. Funds and bonds which have been put up by the contractor in accordance
50 with this Act shall be forfeited.
51

52 **SEC. 66. *Non-transferability of mineral agreements.*** – In no case shall mining rights
53 under this Act be transferrable. The contractor shall also immediately notify the Council and
54 the Bureau of any substantial change in the ownership and/or control of the corporation.

1 Violation of this provision shall cause the cancellation of the agreement and forfeiture of
2 assets and equipment of the contractor in favor of the State.

3
4 **SEC. 67. Access to information.** – All contractors for mineral permits and agreements
5 shall provide information to affected indigenous peoples, local communities, and local
6 governments. The following information, among others, shall be required:

- 7
8 a. The full disclosure of methods and processes of mining;
9 b. The full disclosure of environmental and social risks;
10 c. The full disclosure of ownership structure; and
11 d. The full disclosure of financial sources.

12
13 All information and documents related to proposals, mineral agreements, permits and
14 mining operations shall not be considered confidential. Refusal to grant access to this
15 information shall be cause for the disqualification of prospective proponents or cancellation
16 of mineral agreements and permits.

17
18 The Bureau, being the repository of all relevant information under this Act is mandated to
19 grant access to the public of any information in its custody. Refusal or unnecessary delay by
20 the officers of the Bureau to give information shall be punishable by a fine of fifty thousand
21 pesos (PhP 50,000.00) for every instance of refusal or unnecessary delay. Information
22 requested by indigents or marginalized sectors shall be given to them for free.

23
24 **CHAPTER VI**
25 **SMALL-SCALE MINING**
26

27 **SEC. 68. Applicability of RA 7076.** – Small-scale mining shall continue to be governed by
28 the provisions of Republic Act No. 7076 or the People's Small-Scale Mining Act of 1991,
29 *Provided*, That the Provincial/City Mining Regulatory Board shall be composed of the
30 Governor or City Mayor, as chairperson, as the case may be, a representative from the
31 DENR as co-chairperson, one (1) small-scale mining representative, one (1) large-scale
32 mining representative, one representative from a nongovernment organization who shall
33 come from an environmental group, one representative from a people's organization (PO)
34 coming from the marginalized sector, and at least one (1) representative from the
35 indigenous communities, whenever applicable, as members. The representatives from the
36 private sector, non-government organization and indigenous communities shall be selected
37 by their respective organizations and/or communities, and appointed by the PMRB or
38 CMRB: *Provided further*, That the conduct of small-scale mining shall also comply with the
39 prohibitions and regulations established herein for large-scale mining. Only qualified
40 individuals and cooperatives may apply for a small-scale mining permit.

41
42 **SEC. 69. Maximum term of small-scale mining permits.** – The term for small-scale
43 mining permits shall be three (3) years, extendable to a maximum of fifteen (15) years.

44
45 **SEC. 70. Traditional small-scale mining within ancestral domains.** – The Council shall
46 conduct regular monitoring activities within its jurisdiction to determine if the provisions of
47 relevant laws are complied with in traditional small-scale mining by ICCs/IPs within their
48 respective ancestral domains.

49
50 **SEC. 71. FPIC in small-scale mining.** – Small-scale mining activities within any ancestral
51 domain by any person shall also require the free, prior, and informed consent of ICCs/IPs.

1 **SEC. 72. Requirement for an Environmental and Social Impact Compliance**
2 **Certificate.** – Small-scale mining shall likewise require an Environmental and Social Impact
3 Compliance Certificate. All small-scale mining applicants or proponents must show proof of
4 compliance with the terms and conditions of its Environmental and Social Impact
5 Compliance Certificate (ESICC) prior to the issuance of a small scale mining permit. Failure
6 to submit this requirement will result in the non-issuance of the small-scale mining permit
7 (SSMP).
8

9 **SEC. 73. Environmental measures in small-scale mining.** – The State shall immediately
10 address the environmental and health hazards and problems in small-scale mining, including
11 the use of hazardous chemicals, such as mercury, cyanide and other chemicals, in the
12 amalgamation of gold by small-scale miners.
13

14 **SEC. 74. Prohibition on the use of mercury.** – Mercury use in small-scale mining shall be
15 prohibited. The Bureau shall research, develop and actively promote appropriate
16 technologies in small-scale mining including labor-intensive methods, environmental
17 protection and physical techniques of gold extraction among small-scale miners.
18

19 **SEC. 75. Multisectoral monitoring team.** – A multisectoral monitoring team shall be
20 organized to monitor the SSMP permittee's compliance with the terms and conditions of its
21 SSMP and ECC. The MMT shall conduct ocular inspections of the SSMP area at any time
22 of the day and night and shall have visitorial powers.
23

24 **SEC. 76. Alternative livelihood support.** – The state shall support the improvement of
25 the livelihood of small-scale-miners by extending the services for access to other more viable
26 and sustainable forms of livelihood, and, if the same is not possible, the following support
27 services:
28

- 29 a. access to minerals markets and to financing;
- 30 b. facilitating partnership with mining companies or contractors by, among
31 others, requiring mining companies to buy tailings from small-scale mining
32 operations for further processing or recycling;
- 33 c. facilitating partnership among small-scale mining cooperatives; and
- 34 d. other incentives to attract informal small-scale miners to formalize their status.
35

36 **SEC. 77. Buying stations.** – The Bangko Sentral ng Pilipinas shall ensure that buying
37 stations acquire gold from small-scale traders at prevailing international gold market prices
38 and the prevailing exchange rate set by the BSP Treasury Department on a daily basis.
39
40
41
42

43 **CHAPTER VII** 44 **QUARRY RESOURCES** 45

46 **SEC. 78. Quarry resources within ancestral domains.** – Gathering of quarry resources,
47 sand and gravel, guano and other organic fertilizer materials, and gemstones within ancestral
48 domains shall likewise be subject to the free prior informed consent of ICCs/IPs. ICCs/IPs
49 and the government shall be entitled to at least ten per cent (10%) of royalties depending on
50 whether the resources are found inside or outside ancestral domains. Permits shall be
51 limited to a maximum term of five (5) years, renewable for like periods but not exceeding a
52 total term of twenty five (25) years, and a maximum area of five (5) hectares.

1 **SEC. 79. Quarry Permit.** – Any qualified Filipino may apply for a quarry permit on
2 privately- owned lands except ancestral domains and/or public lands for building and
3 construction materials such as marble, basalt, andesite, conglomerate, tuff, adobe, granite,
4 gabbro, serpentine, inset filling materials, clay for ceramic tiles and building bricks, pumice,
5 perlite and other similar materials that are extracted by quarrying from the ground at the
6 provincial/city mining regulatory board. The provincial governor shall grant the permit after
7 the applicant has complied with all the requirements as prescribed by the rules and
8 regulations set forth by this Act. *Provided,* That gathering/extraction of sand for its metallic
9 contents such as magnetite from the country's rivers and shorelines shall be require a mineral
10 agreement in lieu of a quarry permit.

11
12 The maximum area which a qualified person may hold at any one time shall be limited to a
13 surface area of five hectares (5 has.): *Provided,* That in large-scale quarry operations involving
14 cement raw materials, marble, granite, sand and gravel and construction aggregates, a
15 qualified person and the government may enter into a mineral agreement as defined herein.

16
17 A quarry permit shall have a term of five (5) years, renewable for like periods but not to
18 exceed a total term of twenty-five (25) years. No quarry permit shall be issued or granted on
19 any area covered by a mineral agreement.

20
21 **SEC. 80. Quarry Fee and Taxes.** – A permittee shall pay a quarry fee as provided for
22 under the implementing rules and regulations. The permittee shall also pay the excise tax as
23 provided by pertinent laws.

24
25 **SEC. 81. Cancellation of Quarry Permit.** – A quarry permit may be cancelled by the
26 provincial governor for violations of the provisions of this Act or its implementing rules
27 and regulations or the terms and conditions of said permit: *Provided,* That before the
28 cancellation of such permit, the holder thereof shall be given the opportunity to be heard in
29 an investigation conducted for the purpose.

30
31 **SEC. 82. Commercial Sand and Gravel Permit.** – Any qualified person may be granted a
32 permit by the provincial governor to extract and remove sand and gravel or other loose or
33 unconsolidated materials outside ancestral domains which are used in their natural state,
34 without undergoing processing from an area of not more than five hectares (5 has.) and in
35 such quantities as may be specified in the permit.

36
37 **SEC. 83. Industrial Sand and Gravel Permit.** – Any qualified person may be granted an
38 industrial sand and gravel permit by the Bureau for the extraction of sand and gravel and
39 other loose or unconsolidated materials outside ancestral domains that necessitate the use of
40 mechanical processing covering an area of not more than five hectares (5 has.) at any one
41 time. The permit shall have a term of five (5) years, renewable for a like period but not to
42 exceed a total term of twenty-five (25) years.

43
44 **SEC. 84. Exclusive Sand and Gravel Permit.** – Any qualified person may be granted an
45 exclusive sand and gravel permit by the provincial governor to quarry and utilize sand and
46 gravel or other loose or unconsolidated materials from public lands for his own use, *Provided,*
47 That there will be no commercial disposition thereof.

48
49 **SEC. 85. Government Gratuitous Permit.** – Any government entity or instrumentality
50 may be granted a gratuitous permit by the provincial governor to extract sand and gravel,
51 quarry or loose unconsolidated materials outside ancestral domains needed in the
52 construction of building and/or infrastructure for public use or other purposes over an area
53 of not more than two hectares (2 has.) for a period coterminous with said construction.

1 **SEC. 86. *Private Gratuitous Permit.*** – Any owner of land may be granted a private
2 gratuitous permit by the provincial governor to extract sand and gravel, quarry or loose
3 unconsolidated materials within his property.
4

5 **SEC. 87. *Guano Permit.*** – Any qualified person may be granted a guano permit by the
6 provincial governor to extract and utilize loose unconsolidated guano and other organic
7 fertilizer materials in any portion of a municipality where he/she has an established domicile
8 outside ancestral domains. The permit shall be for specific caves and/or for confined sites
9 with locations verified by the Department's field officer in accordance with existing rules and
10 regulations. *Provided,* That extraction does not violate and is consistent with the provisions in
11 the Cave Conservation Act and the Wildlife Act.
12

13 **SEC. 88. *Gemstone Gathering Permit.*** – Any qualified Filipino may be granted a non-
14 exclusive gemstone gathering permit by the provincial governor to gather loose stones useful
15 as gemstones in rivers and other locations outside ancestral domains.
16

17 **SEC. 89. *Council recommendation for approval.*** – All permits under Chapter VII of this
18 Act shall require the recommendation of the Multi-Sectoral Mineral Council prior to
19 approval by the provincial government unit. The absence of a recommendation from the
20 Council prohibits the approval of any permit in this Chapter.
21

22 **CHAPTER VIII** 23 **TRANSPORT, SALE AND PROCESSING OF MINERALS** 24

25 **SEC. 90. *Ore transport permit.*** – A permit specifying the origin and quantity of non-
26 processed mineral ores or minerals shall be required for their transport. Transport permits
27 shall be issued by the Bureau. The absence of a permit shall be considered as prima facie
28 evidence of illegal mining and shall be sufficient cause for the confiscation of the ores or
29 minerals being transported, the tools and equipment utilized, and the vehicle containing the
30 same.
31

32 **SEC. 91. *Mineral trading registration.*** – No person shall engage in the trading of mineral
33 products, either locally or internationally, unless registered with the Department of Trade
34 and Industry and accredited by the Department, with a copy of said registration submitted
35 to the Bureau.
36

37 **SEC. 92. *Track record.*** – Only mining companies with demonstrated capacity and good
38 environmental track record in mineral processing shall be given mineral processing permit.
39 The Council shall encourage contractors to put up processing plants within the community
40 with the end in view of generating employment and developing other downstream
41 industries.
42

43 **SEC. 93. *Mineral processing permit.*** – No individual, partnership, partnership,
44 cooperative, corporation or other entity shall engage in the Secretary of the Department. Of
45 Environment and Natural Resources (DENR).
46

47 In the case of small-scale miners, the processing of mineral ores they produce, as well as the
48 licensing of their custom mills or processing plants, shall continue to be governed by the
49 provisions of Republic Act No. 7076.

1 In the case of individuals, corporations, partnerships, cooperatives or other entities who are
2 parties to a Mineral Agreement or a Financial or Technical Assistance Agreement, holders of
3 quarry and industrial sand and gravel permits, the approved work program for the
4 production period shall be sufficient requirement for them to process minerals in lieu of a
5 mineral processing permit.

7 A mineral processing permit shall be for a period of ten (10) years, renewable for like
8 periods: *Provided*, That renewal shall not be allowed unless the permit holder has complied
9 with all the terms and conditions of the permit and has not been found guilty of violation
10 of any provision of this Act and its implementing rules and regulations.

12 After due process, a mineral processing permit may be suspended, revoked or cancelled by
13 the DENR for violation of its terms and conditions, or of pertinent laws, rules and
14 regulations.

16 Mineral processing shall be included in the Investment Priority plan to be prepared by the
17 Board of Investment in accordance with Executive Order No. 226, as amended, otherwise
18 known as the Omnibus Investment Code of 1987 and shall always be listed as a preferred
19 area of investment.

21 CHAPTER IX 22 DEVELOPMENT OF COMMUNITIES, SCIENCE, AND TECHNOLOGY

24 **SEC. 94. *Expenditure for community development.*** – A contractor shall assist in the
25 development of the community, and the promotion of the general welfare of its inhabitants
26 towards sustainable development. Community development projects shall in no way decrease
27 the obligation of the corporation with regard to royalties and fees due to communities or
28 local government units. Community development projects should be consistent with the
29 Comprehensive Land Use Plans (CLUP), Ancestral Domains Sustainable Development and
30 Protection Plan (ADSDPP) and annual investment plans of the local governments,
31 CADT/CALT holders and the like.

33 **SEC. 95. *Employment of Filipinos and training of members of the local community.***
34 – A contractor and/or permittee shall give preference to Filipino citizens in all types of
35 mining employment within the country. Members of the local community shall be trained in
36 all aspects of the mining operations, including reining, recycling, rehabilitation, and the
37 management thereof.

39 **SEC. 96. *Use of indigenous goods, services and technologies.*** – A contractor shall give
40 preference to the use of local goods, services, and the scientific and technical resources in all
41 stages of mining operations, where the same are of equivalent quality and are available on
42 equivalent terms as their imported counterparts.

44 **SEC. 97. *Donation/turnover of facilities.*** – Prior to the cessation of mining operations
45 occasioned by abandonment or withdrawal of operations, on public lands by the contractor,
46 the latter shall have a period of one (1) year therefrom within which to remove
47 improvements; otherwise all the infrastructure, facilities and equipment shall be turned over
48 or donated tax-free to the proper government authorities, national or local, to ensure that
49 said infrastructure facilities and equipment are continuously maintained and utilized by the
50 host and neighboring communities. A fine of one hundred thousand pesos (PhP100,000.00)
51 shall be imposed for every day of delay.

CHAPTER X
BENEFIT SHARING, TAXES AND FEES

SEC. 98. *Taxes and fees.* – The contractor shall pay all taxes and fees as required by law, including, but not limited to:

- a. contractor's income tax;
- b. customs, duties and fees on imported capital equipment;
- c. value-added tax on imported goods and services;
- d. withholding tax on interest payments on foreign loans;
- e. withholding tax on dividends to foreign stockholders;
- f. documentary stamps taxes;
- g. capital gains tax;
- h. excise tax on minerals;
- i. local business tax;
- j. real property tax;
- k. community tax;
- l. occupation fees;
- m. registration, accreditation, and permit fees; and
- n. water usage fees.

SEC. 99. *Government share.* – Aside from the taxes and fees referred to in the preceding section, Government shall have at least a share equivalent to ten per cent (10%) of the gross revenues from the development and utilization of mineral resources that are owned by it to be set aside for the general fund of the government to be used, among others, for special projects such as energy development and generation and the management and conservation of protected areas in areas within the vicinity or adjacent to mining operations.

SEC. 100. *Indigenous cultural communities' royalty.* – In case of mineral operations within ancestral domains, the contractor shall pay at least ten percent (10%) of the gross revenues as royalty to the ICCs/IPs. Community development programs shall not be considered as royalty payment. The payment of the royalties shall directly be given to the communities in a process that build on the ICCs/IPs' traditional and customary laws: *Provided,* That the royalty established in this Act shall be a minimum royalty payment and may still be subject to other conditions to be agreed by the parties, free from any external manipulation, interference, coercion, and other analogous acts, and obtained after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable and acceptable to them.

SEC. 101. *Scientific research and development fund.* – A Scientific Research and Development Fund shall be set aside to be devoted to research and development of clean mining technologies, improvement of mining processes, mine rehabilitation, mitigating technologies, setting up and maintenance of an independent pool of experts, and operational expenses of the Bureau.

SEC. 102. *Legal support services fund.* – A legal support fund shall be set aside for the use of the communities and local government units for cases that they may file against mining permittees or cases that may be filed against them by mining companies in trying to do their responsibility of protecting the rights of the marginalized groups, the environment and sustainable development in general.

SEC. 103. *Local Government Unit share.* – Local Government Units shall be entitled to a share of the net revenues from mining operations which shall be paid directly to the

provincial/independent component city/highly urbanized city treasurer/s for distribution to other local government units. To determine the government share, the following variables shall be considered:

- a. Classification of local government;
- b. Vulnerability; and
- c. Human development index.

A percentage of this amount shall be set aside by the respective local government units for Disaster Risk Management. This fund shall likewise benefit ICCs/IPs within the territory of the local government unit. *Provided*, That the administrative and operational expenses of the Council shall also be taken from this share.

SEC. 104. *Mine wastes and tailings fees.* – A semi-annual fee to be known as mine wastes and tailings fee is hereby imposed on all operating mining companies in accordance with the implementing rules and regulations. The mine wastes and tailings fee shall accrue to a fund to be used as support funds for monitoring activities of the Council. The Secretary is authorized to increase mine wastes and tailings fees, when public interest so requires.

SEC. 105. *Incentives.* – Incentives that shall be given to the contractors shall only be limited to pollution control or mitigation devices.

SEC. 106. *Deposit of capital and profits requirement.* – As part of their demonstrated financial capacity, all large-scale mining companies/contractors are required to deposit their capital investment and profits in banks or financial institutions that are owned, managed and operated by the Philippine government.

SEC. 107. *General rule on profit repatriation.* – Contractors with foreign financial assistance shall be allowed to repatriate their profits from mining projects that should not exceed fifty percent (50 %) of the total posted at the end of every fiscal year. Full disclosure of profits is required. The full repatriation of profits shall be allowed one year after the cessation of mining activities and the progressive rehabilitation of a mining area as specified in the mineral agreement of each contractor.

The guidelines for Sections 106 and 107 shall be issued by the Bangko Sentral ng Pilipinas and shall be furnished to the Department, Bureau, Council and all respective contractors in the industry.

CHAPTER XI SAFETY AND ENVIRONMENTAL PROTECTION

A. SAFETY

SEC. 108. *Mines safety.* – All contractors and permittees shall strictly comply with all the mines and safety rules and regulations concerning the safe and sanitary upkeep of the mines and mining development. Government personnel involved in the implementation of mines safety, occupational health and environmental rules and regulations shall be covered under Republic Act No. 7305 or the Magna Carta of Public Health Workers.

SEC. 109. *Mine labor.* – No person under sixteen (16) years of age shall be employed in any place of mining operations and no person under eighteen (18) years of age shall be employed in a mine.

1 **SEC. 110. *Mine supervision.*** – All mining and quarrying operations shall have at least one
2 (1) licensed mining engineer for every fifty (50) employees. Such engineer/s shall have at
3 least five (5) years of experience in mining operations, and one (1) registered foreman.
4

5 **SEC. 111. *Safety of workers.*** – All mining companies shall provide safeguards to the health
6 and well-being of workers. The Regional Office of the Department of Labor and
7 Employment shall inspect all mining sites within their areas of jurisdiction to determine the
8 conditions of workers. Denial of entry shall be punishable under this Act. Representatives
9 of labor unions shall also have visitorial rights.
10

11 **SEC. 112. *Mine inspection.*** – The mines regional directors and the Council shall have
12 jurisdiction over the safety inspection of all installations, surface or underground, in mining
13 operations at reasonable hours of day or night and as much as possible in a manner that will
14 not impede or obstruct work in progress of a contractor or permittee. Monitoring reports
15 and recommendations of the Bureau shall be submitted to the Council.
16

17 **SEC. 113. *Power to issue orders.*** – The mines regional director, in consultation with the
18 Environmental Management Bureau, forthwith or within such time as specified in the order,
19 require the contractor to remedy any practice connected with mining, which is not in
20 accordance with safety and anti-pollution laws and regulations. In case of imminent danger
21 to life or property, the Director may summarily suspend the mining operation until the
22 danger is removed, or appropriate measures are taken by the contractor. Unreasonable delay
23 to remove the danger or introduce the necessary improvements by the contractor shall be a
24 cause for the cancellation of the mineral agreement.
25

26 **SEC. 114. *Report of accidents.*** – In case of any incident or accident, causing or creating
27 the danger of loss of life or serious physical injuries, the person in charge of operations shall
28 immediately report the same to the regional office where the operations are situated. Failure
29 to report the same without justifiable reason shall be cause for the imposition of
30 administrative sanctions prescribed in the rules and regulations implementing this Act.
31
32

33 **B. ENVIRONMENTAL PROTECTION** 34

35 **SEC. 115. *Environmental Insurance.*** – Contractors and mineral processing permit holders
36 shall be obliged to execute an insurance contract as an environmental assurance for each and
37 every source of pollution or disaster, relative to the “worst case scenario” costs, following
38 accepted actuarial standards, *Provided*, That in no way shall this provision be construed to
39 remove or reduce the liability of the contractors and/or permit holders to compensate any
40 damage caused by their operations. *Provided further*, That the insurer shall be an accredited
41 international company in good standing.
42

43 Prior to the approval of the insurance contract by the DENR, the DENR shall seek and
44 consider the opinion of an independent expert as to the financial credibility of the insurer.
45

46 **SEC. 116. *Calamity and Human Rights Protection Fund.*** – Persons issued a mineral
47 agreement shall deposit five million pesos (PhP 5,000,000.00) semi-annually in an interest-
48 bearing account a common fund maintained by the national government which shall be used
49 for responding to, or ameliorating the effects of calamities, natural disasters and human
50 rights violations including militarization, displacement, and forcible evacuation in any part of
51 the country in relation to mining activities. *Provided*, That in no way shall this provision be
52 construed to remove or reduce the liability of the contractors and/or permit holders to
53 compensate any damage caused by their operations.
54

1 **SEC. 117. *Performance Bond.*** – The contractor shall put up a bond in an amount
2 equivalent to fifty per cent (50%) of the projected cost of rehabilitation as validated by
3 independent studies. This amount shall be deposited in an interest-bearing account. The
4 bond shall be forfeited in the event that the contractor shall fail or default in the
5 rehabilitation or remediation of the mining area as included in the work plan of the
6 contractor or abandons the mine at any time of its operations.

7
8 **SEC. 118. *Rehabilitation.*** – Contractors and permittees shall technically and biologically
9 rehabilitate the excavated, mined-out, tailings covered and disturbed areas to the condition
10 of environmental safety, as may be provided in the implementing rules and regulations of
11 this Act. A mine rehabilitation fund shall be created, based on the contractor's approved
12 work program, and shall be deposited as a trust fund in a government depository bank and
13 used for physical and social rehabilitation of areas and communities affected by mining
14 activities and for research on the social, technical and preventive aspects of
15 rehabilitation. Failure to fulfill the above obligation shall mean immediate suspension or
16 closure of the mining activities of the contractor/permittee concerned.

17
18 Mining firms are hereby mandated to reforest 100 hectares of land for every one hectare of
19 land they utilize in the course of their mining operations. Mining firms are also mandated to
20 immediately restore and replant areas that they have already finished excavating as they move
21 on to other development sites: *Provided,* That if mining firms cannot do the reforestation in
22 their immediate area they could do the reforestation in other areas provided they comply
23 with 100:1 hectare ratio. Any mining firm found to have violated or have not complied with
24 the foregoing mandatory provisions shall be held liable with the penalty of revocation of
25 their mining permits and payment of a fine of not less than One Million Pesos (PhP
26 1,000,000).

27
28 The owners, officers and management employee of said mining firms shall also be held
29 liable and be subject to imprisonment of not less than one (1) year nor more than three (3)
30 years.

31
32 **SEC. 119. *Progressive rehabilitation.*** – Contractors shall also conduct progressive
33 rehabilitation activities.

34
35 **SEC. 120. *Adoption of Precautionary Principle.*** – When an activity related to mining
36 raises threats of harm to human health or the environment, precautionary measures shall be
37 taken proactively even if some cause and effect relationship are not fully established
38 scientifically. The mining proponent and the Bureau shall also be obliged to disclose whether
39 or not the cause and effect have not yet been scientifically established.

40
41 **SEC. 121. *Adoption of Polluter Pays Principle.*** – Polluters shall pay for the damage they
42 cause to the environment. The amount of damages shall be determined by accredited
43 independent consultants, to be chosen from a list and agreed upon by both the mining
44 proponent and by the Council.

45
46 **SEC. 122. *Tailings impoundment.*** – Tailings impoundments shall be built away from
47 critical watershed drainage areas. Furthermore, it shall be ensured that impoundments will
48 not endanger critical watershed areas or low lying valleys in the event of accidents under
49 abnormal conditions. Tailing impoundments and dams shall meet the international standards
50 for large dams.

51
52 **SEC. 123. *Dumping of waste.*** – Dumping of waste or tailings in any body of water shall
53 be prohibited. Provisions on the Clean Water Act and Clean Air Act shall be strictly
54 implemented.

1
2 **SEC. 124. *Use of toxic chemicals and methods.*** – At all times, mining contractors shall
3 use chemicals or reagents which would result to the least environmental and social
4 destruction. The use of mercury and cyanide for the extraction of gold, silver and other
5 minerals shall be prohibited. The use of blow torching to separate gold from amalgam shall
6 likewise be prohibited.
7

8 **SEC. 125. *Preservation of topsoil.*** – The removed topsoil, or the more productive
9 horizons of the soil shall be preserved for other uses.
10

11 **SEC. 126. *Priority use for water.*** – The National Water Resources Board shall investigate
12 any existing use of water resources in the area whether or not covered by any existing water
13 permit or registration. Upon determination of any existing use, the applicant shall procure
14 the consent of all water users and/or the free prior and informed consent of ICCs/IPs with
15 or without water permits within the same groundwater network or any downstream users of
16 water resources. In all instances, priority shall be given to use of water for domestic,
17 municipal, and agricultural purposes. If potential negative impact on other water users is
18 identified, the water permit shall not be granted. For water resources within the ancestral
19 domain of indigenous peoples, no water permit shall be granted by the National Water
20 Resources Board without the free and prior informed consent of indigenous peoples.
21

22 **SEC. 127. *Recycling of water resources.*** – Water used in mining operations shall be
23 recycled. Mining contractors shall be required to provide for the methods or equipment for
24 the recycling or reuse of water. Released contaminated water shall be treated accordingly to
25 meet national standards. Released water must at least be equivalent in quality to the baseline
26 water quality.
27

28 **SEC. 128. *Water user fee.*** – A water user fee that reflects the value of water to the country
29 and community shall be imposed by the Council for water used in mining operations.
30 Contractors shall pay the fee to the National Water Resources Board which shall use the
31 same for monitoring and improvement of the affected waterways and systems and the
32 mitigation of negative impacts thereon to ensure that communities shall have access to clean
33 water.
34

35 **C. ACID MINE DRAINAGE**

36

37 **SEC. 129. *Prohibition from using acid-generating waste rock to build roads or dams.***
38 – To prevent or mitigate acid mine drainage, there shall be a prohibition against using acid-
39 generating waste rock to build roads or dams or other infrastructures. The use of such
40 materials shall only be used after treatment to neutralize the effect of acid mine drainage.
41

42 **SEC. 130. *Establishment of a prediction and monitoring system.*** – The Bureau shall
43 establish a prediction and monitoring system to identify potential acid-producing materials
44 and monitor their production of acid waste.
45

46 **SEC. 131. *Avoidance of waterways.*** – Open pits, waste rock piles and tailings
47 impoundments shall not be built near or on waterways to prevent contact and subsequent
48 acid production and groundwater contamination.
49

50 **SEC. 132. *Remining.*** – Remining shall be prioritized over the opening of new mines to
51 maximize and recover the remaining minerals from the rejects or wastes of previous mines
52 and mining operations, *Provided,* That remining operations shall follow the processes,
53 standards, parameters and guidelines set for mining operations in this Act.

1 **SEC. 133. Suits after the termination of contracts or projects.** – Recognizing that the
2 effects of mining may be seen or felt, actions relating to the health of affected communities
3 or peoples, environmental degradation and other similar effects may be maintained against
4 the project proponent and/or persons even after the mineral agreement or mining project
5 has terminated.

6
7 **CHAPTER XII**
8 **RESOLUTION OF CONFLICTS**
9

10 **SEC. 134. Panel of arbitrators.** – There shall be a panel of arbitrators in the regional office
11 of the Department composed of three (3) members, two (2) of whom must be members of
12 the Philippine Bar in good standing and one a licensed mining engineer or a professional in a
13 related field, and duly designated by the Secretary as recommended by the Mines and
14 Geosciences Bureau Director. Those designated as members of the panel shall serve as such
15 in addition to their work in the Department without receiving any additional compensation
16 As much as practicable, said members shall come from the different bureaus of the
17 Department in the region. The presiding officer thereof shall be selected by the drawing of
18 lots. His tenure as presiding officer shall be on a yearly basis. The members of the panel shall
19 perform their duties and obligations in hearing and deciding cases until their designation is
20 withdrawn or revoked by the Secretary. Within thirty (30) working days, after the submission
21 of the case by the parties for decision, the panel shall have exclusive and original jurisdiction
22 to hear and decide on the following:

- 23
24 a. Questions involving compliance with the established technical guidelines and
25 standards herein established, or those to be established by the implementing
26 rules and regulations of this Act;
27
28 b. Questions involving the compliance with technical procedures herein
29 established, or those to be established by the implementing rules and
30 regulations; and,
31
32 c. Other similar instances wherein the technological and technical expertise of
33 the Department shall be needed.
34

35 Disputes involving real rights, contractual obligations and the other causes of action that are
36 outside the technological and technical expertise of the Panel of Arbitrators shall be under
37 the jurisdiction of the regular courts or as otherwise provided by other special laws.
38

39 *Provided,* That disputes pending before the Bureau and the Department at the date of the
40 effectivity of this Act shall undergo an immediate review within sixty (60) working days
41 upon the passage of this Act to determine the cause of action. Those which are outside the
42 technical expertise of the Department or Bureau shall be refiled with the appropriate court,
43 without costs to the complainant or petitioner.
44

45 **SEC. 135. Appeal.** – The decision or order of the panel of arbitrators may be appealed by
46 the party not satisfied thereto to the Mines Adjudication Board within fifteen (15) days from
47 receipt thereof which must decide the case within thirty (30) days from submission thereof
48 for decision.
49

50 **SEC. 136. Mines Adjudication Board (MAB).** – The Mines Adjudication Board shall be
51 composed of three (3) members. The Secretary of the DENR shall be the Chairperson with
52 the Director of the Mines and Geosciences Bureau and the Undersecretary for Operations
53 of the Department as members thereof. The Board shall have the following powers and
54 functions:

- 1
2 a. To promulgate rules and regulations governing the hearing and disposition of
3 cases before it, as well as those pertaining to its internal functions, and such
4 rules and regulations as may be necessary to carry out its functions;
5
6 b. To administer oaths, summon the parties to a controversy, issue subpoenas
7 requiring the attendance and testimony of witnesses or the production of
8 such books, papers, contracts, records, statement of accounts, agreements, and
9 other documents as may be material to a just determination of the matter
10 under investigation, and to testify in any investigation or hearing conducted in
11 pursuance of this Act;
12
13 c. To conduct hearings on all matters within its jurisdiction, proceed to hear and
14 determine the disputes in the absence of any party thereto who has been
15 summoned or served with notice to appear, conduct its proceedings or any
16 part thereof in public or in private, adjourn its hearings at any time and place,
17 refer technical matters or accounts to an expert and to accept his report as
18 evidence after hearing of the parties upon due notice, direct parties to be
19 joined in or excluded from the proceedings, correct, amend, or waive any
20 error, defect or irregularity, whether in substance or in form, give all such
21 directions as it may deem necessary or expedient in the determination of the
22 dispute before it, and dismiss the mining dispute as part thereof, where it is
23 trivial or where further proceedings by the Board are not necessary or
24 desirable;
25
26 d. To hold any person in contempt, directly or indirectly, and impose appropriate
27 penalties therefor; and
28
29 e. To enjoin any or all acts involving or arising from any case pending before it
30 which, if not restrained forthwith, may cause grave or irreparable damage to
31 any of the parties to the case or seriously affect social and economic stability.
32

33 In any proceeding before the Board, the rules of evidence prevailing in courts of law or
34 equity shall not be controlling and it is the spirit and intention of this Act that shall govern.
35 The Board shall use every and all reasonable means to ascertain the facts in each case
36 speedily and objectively and without regard to technicalities of law or procedure, all in the
37 interest of due process and social justice. In any proceeding before the Board, the parties
38 may be represented by legal counsel. The findings of fact of the Board shall be conclusive
39 and binding on the parties and its decision or order shall be final and executory.
40

41 A petition for review by certiorari and question of law may be filed by the aggrieved party
42 with the Supreme Court within thirty (30) days from receipt of the order or decision of the
43 Board.
44
45
46

47 CHAPTER XIII 48 ACCESS TO JUSTICE 49

50 **SEC. 137. *Obligation to respect human rights.*** – Corporations shall respect, protect and
51 promote the human rights of communities affected by mining, including the right to life,
52 liberty and property, freedom of movement, right of public participation and the right to
53 self-determination of indigenous cultural communities.
54

1 **SEC. 138. *Violations of human rights.*** – Extrajudicial killing, torture, involuntary
2 disappearance, forcible displacement of populations, setting up of checkpoints, and
3 imposition of toll fees which impede the freedom of movement within mineral areas,
4 deprivation of food and water sources, vote-buying and bribery for the purpose of securing
5 consent or endorsement for the mining project, and other analogous acts are violations of
6 human rights. Violations of human rights by contractors shall cause the immediate
7 cancellation of mineral agreements. The offending contractor, as well as corporations having
8 the same directors and/or officers as of the offending contractor shall be perpetually
9 disqualified from being granted a mineral agreement. All equipment and assets of the
10 corporation or person shall be confiscated in favor of the government.

11
12 **SEC. 139. *Use of paramilitary and military forces.*** – All mining companies are strictly
13 prohibited from employing paramilitary groups. Use of private and military forces shall
14 result in the automatic cancellation of the mineral agreement and the filing of appropriate
15 civil, criminal and/or administrative charges.

16
17 **SEC. 140. *Strategic Legal Action Against Public Participation (SLAPP).*** – SLAPPs
18 shall be strictly prohibited. SLAPP is any legal action, whether civil, criminal or
19 administrative, filed to harass, vex, exert legal action or stifle legal recourses of community
20 members complaining against violations of this Act or enforcing the provisions of the Act,
21 or exercising their freedom of assembly or right of public participation. The investigating
22 prosecutor or court shall immediately determine within a period of thirty (30) days from
23 filing thereof whether a legal action is a SLAPP and accordingly dismiss the same.

24
25 **SEC. 141. *Indigents' suit.*** – Indigents shall be exempt from payment of any administrative
26 or court fees, including docket fees for the filing of a case. Lawyers shall be provided by the
27 Public Attorney's Office to pauper litigants in case they could not afford legal services.

28
29 **SEC. 142. *Application of the customary laws of ICCs/IPs.*** – The contractor shall
30 respect the customary laws of the ICCs/IPs and shall submit to the processes of their
31 customary laws, *Provided*, That these laws are not contrary to the provisions of the
32 Constitution.

33
34 **SEC. 143. *Strict liability.*** – Mining corporations are strictly liable for all damages that the
35 mining operations might cause. In case of any actual damage, the burden of proof shall lie
36 with the corporations.

37
38 **SEC. 144. *Piercing the corporate veil.*** – When the separate personality of the corporation
39 from its shareholders is being invoked as defense in order to perpetuate a crime, fraud or
40 other machinations, or evade liability, the separate personality of the corporation shall be set
41 aside. Civil, criminal and administrative actions may thus be filed directly against the
42 members of the Board of Directors, officers and/or individual stockholders.

43
44 **SEC. 145. *Citizen suits.*** – For the purpose of enforcing the provisions of this Act or its
45 implementing rules and regulations, any citizen may file appropriate civil, criminal and
46 administrative suits against any of the following:

- 47
48 a. Any person who violates or fails to comply with the provisions of this Act or
49 its implementing rules and regulations;
50
51 b. Any public officer with respect to orders, rules and regulations inconsistent
52 with this Act; or
53

- 1 c. Any public officer who willfully or grossly neglects the performance of an act
2 specifically enjoined as a duty by this Act or its rules and regulations; or abuses
3 the authority in the performance of a duty or duties under this Act or its
4 implementing rules and regulations.
5

6 The court shall exempt such action from the payment of filing fees, except fees for actions
7 not capable of pecuniary estimation, and shall likewise, upon prima facie showing of non-
8 enforcement or violation complained of, exempt the plaintiff from filing an injunction bond
9 for the issuance of a preliminary injunction.
10

11 The court shall determine whether or not the complaint is malicious or baseless and shall
12 accordingly dismiss the petition within thirty (30) days upon the filing of the case.
13

14 CHAPTER XIV 15 PENAL PROVISIONS 16

17 **SEC. 146. *Grounds for the cancellation of mineral agreements and permits.* –** 18

- 19 a. Violation of any provision of this Act;
20 b. Human rights violations perpetrated by the contractor or any agent of the
21 contractor;
22 c. Non-payment of taxes;
23 d. Bribery, use of force, intimidation, threat, coercion of public officials and
24 communities;
25 e. Any act that shall create or contribute to conflicts; and
26 f. Other analogous acts.
27

28 *Provided, That, violations of environmental provisions shall cause the immediate cancellation*
29 *of mining permits, and the contractor shall be required to pay for the rehabilitation,*
30 *restoration or clean-up of the impacts of such violations.*
31

32 Corporations, corporate directors and/or officers found guilty of the above enumeration
33 may be subjected to a perpetual ban in the mining industry in the Philippines.
34

35 **SEC. 147. *False statements.* –** Any person who knowingly presents any false application,
36 declaration, or evidence to the Government or publishes or causes to be published any
37 prospectus or other information containing any false statement relating to mines, mining
38 operations or mineral agreements and permits shall, upon conviction, be penalized by a fine
39 of not exceeding One Hundred Thousand pesos (PhP100,000.00).
40

41 **SEC. 148. *Illegal exploration.* –** Any person undertaking exploration work without the
42 necessary exploration permit shall, upon conviction, be penalized by a fine of not exceeding
43 Five Million pesos (P5,000,000.00).
44

45 **SEC. 149. *Theft of minerals.* –** Any person extracting minerals and disposing the same
46 without a mining agreement, lease, permit, license, or steals minerals or ores or the products
47 thereof from mines or mills or processing plants shall, upon conviction, be imprisoned from
48 six (6) months to six (6) years or pay a fine from One Hundred thousand pesos
49 (P100,000.00) to One Million pesos (PhP1,000,000.00) or both, at the discretion of the
50 appropriate court. In addition, he shall be liable to pay damages and compensation for the
51 minerals removed, extracted, and disposed of. In the case of associations, partnerships, or
52 corporations, the president and each of the directors thereof shall be responsible for the acts
53 committed by such association, corporation, or partnership.
54

1 **SEC. 150. *Unauthorized dealing, selling, and/or buying of gold.*** – Any person,
2 partnership or corporation who shall sell, buy or in any manner deal gold from any miner or
3 person without being duly authorized by the *Bangko Sentral ng Pilipinas* shall be punished as
4 unauthorized dealing and shall be penalized in accordance with the provisions in this Act.

6 **SEC. 151. *Destruction of mining structures.*** – Any person who willfully destroys or
7 damages structures in or on the mining area or on the mill sites shall, upon conviction, be
8 imprisoned for a period not to exceed five (5) years and shall, in addition, pay compensation
9 for the damages which may have been caused thereby.

11 **SEC. 152. *Mines arson.*** – Any person who willfully sets fire to any mineral stockpile, mine
12 or workings, fittings or a mine, shall be guilty of arson and shall be punished, upon
13 conviction, by the appropriate court in accordance with the provisions of the Revised Penal
14 Code and shall, in addition, pay compensation for the damages caused hereby.

16 **SEC. 153. *Willful damage to a mine.*** – Any person who willfully damages a mine,
17 unlawfully causes water to run into a mine, obstructs any shaft or passage to a mine, renders
18 useless, damages or destroys any machine, appliance, apparatus, rope, chain, tackle, or any
19 other things used in a mine, shall be punished, upon conviction, by the appropriate court, by
20 imprisonment not exceeding a period of five (5) years and shall, in addition, pay
21 compensation for the damages caused thereby.

23 **SEC. 154. *Illegal obstruction to permittees or contractors.*** – Any person who, without
24 justifiable cause, prevents or obstructs the holder of any permit, agreement or lease from
25 undertaking his mining operations shall be punished, upon conviction by the appropriate
26 court, by a fine not exceeding Five thousand pesos (PhP 5,000.00).

28 **SEC. 155. *Vitiation of FPIC.*** – Any person found to have vitiated the consent of the
29 ICCs/IPs through bribery, threat, force, and/or intimidation, or any other similar means,
30 shall suffer the penalty of six (6) years and one (1) day to ten (10) years in prison, and a fine
31 of at least two million pesos (PhP 2,000,000.00). If the perpetrator is a government official,
32 the penalty shall be eight (8) years and one (1) day to twelve (12) years imprisonment, and a
33 fine of at least four (4) million pesos (PhP 4,000,000.00). He/she shall be perpetually
34 prohibited from assuming public office, and shall be disqualified from receiving other
35 benefits by virtue of his/her position in government.

37 **SEC. 156. *Penalty for human rights violations.*** – Contractors or other persons who have
38 violated the human rights of communities in connection with the mining operations shall be
39 penalized with ten (10) years to fourteen (14) years imprisonment and a fine of at least five
40 million pesos (PhP 5,000,000.00) and shall indemnify the victims.

42 **SEC. 157. *Amendment to Section 27 of Republic Act No. 7076 or the Small-scale Mining Act.*** – Violations of the provisions of RA 7076 or of the rules and regulations
43 issued pursuant hereto shall be penalized with imprisonment of six (6) years and 1 day to
44 twelve (12) years. The State shall confiscate and seize equipment, tools and instruments;
45 effect immediate suspension or closure of the mining activities of the permittee concerned,
46 and revoke the permit.

49 **SEC. 158. *Abandonment.*** – Contractors and/or permittees who shall abandon mines shall
50 be perpetually banned or disqualified from conducting mining operations, directly or
51 indirectly. The ban and/or disqualification shall include the officers and directors of
52 corporations that have abandoned mines.

1 **SEC. 159. *Confiscation of equipment and property.*** – The equipment and property of
2 contractors and permit holders violating this Act shall be forfeited in favor of the
3 government.

4
5 **SEC. 160. *Non-application of the corporate veil.*** – Any person violating the provisions
6 of Commonwealth Act No. 108, or the Anti-Dummy Law of the Philippines as amended, or
7 is found to have used the corporate structure to defeat the provisions of this Act shall suffer
8 the penalty of five million pesos (PhP 5,000,000.00) and perpetual ban in the mining
9 industry.

10
11 **SEC. 161. *Reinstatement of revoked permits.*** – After notice and hearing, revoked
12 permits that have undergone due process may be reinstated, *Provided*, That it may only be
13 reinstated once.

14
15 **CHAPTER XV**
16 **TRANSITORY PROVISIONS**

17
18 **SEC. 162.** – There shall be a moratorium on all mining activities until all the systems are in
19 place for the proper implementation of the law.

20
21 **SEC. 163.** – All existing mining permits, licenses and agreements are hereby deemed
22 cancelled. Those mine workers and their families that may be displaced during the transition
23 period shall receive livelihood support and job placements to be facilitated by the
24 appropriate agencies of the State.

25
26 **SEC. 164.** – The classification of public lands as mineral reservations pursuant to pre-
27 existing laws shall hereby cease. All such lands shall be closed to mining unless opened
28 thereto in accordance with the provisions of this Act. The President's power to declare
29 mineral reservations shall henceforth cease to exist. A review of the current mineral land
30 classification shall be conducted to determine the best livelihood and economic option for
31 the said area.

32
33 **SEC. 165.** – The members of the panels of arbitrators and the provincial or city mining
34 regulatory boards established under Republic Act No. 7942 shall hold-over their positions
35 until replaced in accordance with provisions of this Act.

36
37 **CHAPTER XVI**
38 **FINAL PROVISIONS**

39
40 **SEC. 166. *Separability Clause.*** – The provisions of this Act are hereby declared to be
41 separable and, in the event of any such provisions are declared unconstitutional, the other
42 provisions which are not affected thereby shall remain in force and effect.

43
44 **SEC. 167. *Repealing Clause.*** – Republic Act No. 7942, Presidential Decree 463,
45 Presidential Decree 512, and other related mining laws are hereby repealed. All provisions in
46 laws, decrees, issuances and other regulations inconsistent with this present law shall be
47 deemed amended or repealed if the inconsistency is irreconcilable.

48
49 **SEC. 168. *Funds.*** – The amount of One Hundred Billion Pesos (PhP 100,000,000,000.00)
50 is hereby appropriated for the proper functioning of the Bureau, the Council, and other
51 bodies established under this Act of which half of the said amount shall be allotted for the
52 baseline mineral exploration activities of the Bureau.

1 **SEC. 169. *Implementing Rules and Regulations.*** – The implementing rules and
2 regulations of this Act shall be the product of joint collaboration by the Department, and
3 representatives from the local government units, peoples' organizations, sectoral
4 organizations and non-governmental organizations, and shall be drawn up after appropriate
5 and exhaustive public consultations at all levels nationwide.

6
7 **SEC. 170. *Effectivity.*** – This Act shall take effect within fifteen (15) days following its
8 publication in two (2) national newspapers of general circulation in the Philippines.

9
10
11 Approved,