

**SENATE**

'19 JUL 11 P1:10

S. No. 353

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**INTRODUCED BY SENATOR RISA HONTIVEROS**

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**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 3<sup>rd</sup> richest in the world for gold per unit area, 4<sup>th</sup> richest in copper, 5<sup>th</sup> in nickel, and 6<sup>th</sup> 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 people's 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.

  
**RISA HONTIVEROS**

**Senator**

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

**CHAPTER I  
DECLARATION OF POLICIES**

- 1 Section 1. *Short Title.* – This Act shall be known as the “*Alternative Minerals*  
2 *Management Act of 2019.*”
- 3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to:
- 4 a) Maintain peace and order, protect life, liberty and property and promote  
5 the general welfare;
  - 6 b) Advance the medium- and long-term needs of the Philippines;
  - 7 c) Encourage the advancement of the industry’s technology with emphasis  
8 on existing indigenous knowledge, research and development;
  - 9 d) Protect and advance the right of the people to a balanced and healthful  
10 ecology in accord with the rhythm and harmony of nature;
  - 11 e) Value the dignity of every human person and guarantees full respect for  
12 human rights;
  - 13 f) Promote social justice in all phases of national development;
  - 14 g) Recognize and promote the rights of indigenous cultural communities  
15 within the framework of national unity and development and protect the  
16 right to self-determination of the indigenous and Moro peoples;
  - 17 h) Protect and promote the right to health of the people and instill health  
18 consciousness among them;

- 1 i) Pursue an independent foreign policy. In its relations with other states  
2 the paramount consideration shall be national sovereignty, territorial  
3 integrity, national interest, and the right to self-determination;
- 4 j) Develop a self-reliant and independent national economy effectively  
5 controlled by Filipinos;
- 6 k) Ensure the autonomy of local governments;
- 7 l) Give highest priority to the enactment of measures that protect and  
8 enhance the right of all the people to human dignity, reduce social,  
9 economic, and political inequalities, and remove cultural inequities by  
10 equitably diffusing wealth and political power for the common good;
- 11 m) Encourage non-governmental, community-based, or sectoral  
12 organizations that promote the welfare of the nation; and
- 13 n) Adopt and accept the generally accepted principles as embodied in the  
14 International Covenant on Civil and Political Rights, International  
15 Covenant on Economic, Social, Cultural Rights, UN Declaration on the  
16 Rights of Indigenous Peoples, UN Convention on Biodiversity and other  
17 international accords on human rights, labor rights, the rights of women  
18 and children, and the protection and preservation of the environment, of  
19 which the State is a party.

20 Sec. 3. – The State shall formulate a National Industrialization Program pursuant  
21 to the principles of agricultural modernization, development of industrial and  
22 manufacturing industries, and rational, sustainable, and equitable development of the  
23 national economy. The State shall, therefore, promote the development of mineral  
24 processing to maximize the benefits or value-added from mining. Towards this end, it  
25 shall encourage the establishment and development of manufacturing plants that will  
26 utilize locally processed mineral products as well as mining firms that will process  
27 mineral ores first for domestic purposes and before exporting them to other countries.  
28 Pursuant to the foregoing, the State shall implement a Mineral Management Plan that  
29 provides the framework for the utilization and management of the country's mineral  
30 resources, which will address the needs of the domestic economy and uphold the rights  
31 of industry workers, indigenous peoples and local communities.

32 Sec. 4. – The judicious stewardship of our mineral resources, as well as its  
33 exploration, development and utilization shall comply with the following principles:

- 34 a) The current export-orientation of mining is hereby reversed, and a  
35 domestic needs-based development of the industry shall be pursued by  
36 the State as a step towards achieving genuine economic development;

- 1           b) The mining industry shall be geared towards national industrialization  
2           and shall be built for the production of raw materials such as base  
3           metals, basic chemicals and petrochemicals needed by the basic,  
4           medium and heavy industries to produce as much consumer,  
5           intermediate and capital goods with the country's stock of finite mineral  
6           and non-mineral industrial raw materials and in the process provide jobs  
7           to the country's vast human resources;
- 8           c) The community shall actively participate in the stewardship of mineral  
9           resources. Community-based initiatives shall be encouraged and  
10          supported;
- 11          d) The State and its members shall develop its human resources and  
12          encourage the evolution of its own appropriate technologies. The State  
13          shall provide the appropriate support and protection to Filipino  
14          corporations to further develop and increase their participation in the  
15          industry. All mining industry investments shall be mutually-beneficial and  
16          help achieve the specific target and goals of the National  
17          Industrialization Program. To come up with the large capital requirement  
18          for mining, the State must use local sources such as but not limited to  
19          the granting of incentives and financial aid to local private sector  
20          investors, re-channeling of government budget allocations for foreign  
21          debt payments and military expenditures, and the proceeds from the  
22          government shares of the Malampaya Natural Gas Project;
- 23          e) The State shall allow, in exceptional cases, foreign corporations to invest  
24          in the mineral industry. Based on the National Industrialization Program  
25          and the country's capability and capacity, the government must identify  
26          the mineral areas where foreigners can help and invest subject to  
27          rigorous screening and strict regulations as provided in this Act and  
28          related laws. The participation of foreign companies in the critical stages  
29          of minerals extraction and processing shall be in accordance with a  
30          mandatory program or agreement for technology transfer and equity  
31          shares that do not exceed forty (40) percent of the full capital  
32          requirements.
- 33          *Provided,* That capital accumulation and reinvestment within the country  
34          shall be primarily encouraged over profit repatriation by the foreign  
35          companies and that foreign mining corporations, their principals, local

1 firms and conduits that have a bad track record in the Philippines are  
2 banned from investing in the country;

3 f) In land and water use, the production of sufficient food free from  
4 pollution towards food security shall always be the priority;

5 g) Long-term mining development shall be programmed by the State in  
6 accordance with the country's availability of resources, capability and  
7 well-being of the people, technological capacity and people's  
8 acceptability. The right of Muslim Filipinos and indigenous peoples to  
9 self-determination and ancestral domain shall be recognized and their  
10 collective property rights are guaranteed by this Act;

11 h) Job security, adequate wages, benefits, and safe working conditions for  
12 mine workers shall be ensured in state- and privately-owned mining  
13 corporations. Their right to organize and form their own associations, to  
14 collective bargaining and to strike shall be upheld. The state will strictly  
15 prohibit forced and child labor in the industry;

16 i) Small-scale mining operations shall be supported and regulated by the  
17 state. The state will encourage the formation of cooperatives among  
18 small-scale miners and provide financial and technical support to  
19 develop the labor-intensive and upgrade the backward technologies into  
20 a more efficient and less environmentally destructive mining process.  
21 Whenever small- scale mining is stopped, alternative and sustainable  
22 livelihood shall be provided to the small-scale miners.

23 j) Mining operations shall not in any way create or exacerbate conflicts. In  
24 no instance shall the Armed Forces of the Philippines (AFP), the  
25 Philippine National Police (PNP) and private security and paramilitary  
26 groups be used to coerce or force the entry and protection of mining  
27 operations;

28 k) Mining industry research and development shall focus on harnessing  
29 more economically- efficient and less environmentally destructive  
30 methods. The advanced technologies from other countries that are  
31 proven to be appropriate locally shall be adopted in the industry;

32 l) All mining operations shall be strictly regulated to ensure the domestic  
33 processing of mineral ores up to the secondary and tertiary stages of  
34 industrial production to develop our own basic and medium industries.  
35 Recycling programs and substitution in the use of minerals shall be  
36 incorporated in the overall plan of mining development to reduce mine

1 waste and pollution, and mining rehabilitation techniques. Indigenous  
2 technologies that are relevant and appropriate, particularly with respect  
3 to the domestic processing of minerals shall be promoted, harnessed,  
4 expanded and upgraded;

5 m) The State and its members shall share in the burden of satisfying the  
6 need for mineral resources primarily through reusing and recycling  
7 existing mineral products. Ecologically-sound practices at all stages of  
8 mining shall be promoted. Mining technologies such as open-pit mining  
9 and submarine mine tailing disposal methods that are banned abroad  
10 and/or proven inappropriate in countries like the Philippines must all be  
11 banned. Environmental standards shall be set to ensure the protection  
12 and efficient utilization of the country's mineral resource base. Ecological  
13 considerations in mining development shall be given due emphasis and  
14 attention to substantially eliminate destructive effects that certain  
15 mining industrial processes might have on the people's health and the  
16 environment. Monitoring mechanisms with strong participation from the  
17 local communities will be instituted;

18 n) Mining in environmentally critical areas such as small island ecosystems,  
19 primary and secondary forests and watersheds shall be banned.  
20 Dumping of mine wastes and tailings to rivers, lakes and seas are  
21 prohibited; The integrity of the environment shall not be compromised;  
22 and

23 o) Areas affected by mining shall be rehabilitated, including abandoned  
24 mines. Violators shall be strictly punished and made to pay heavy  
25 compensation to the State and the affected communities;

26 Sec. 5. – The exploration, development and utilization of natural resources must  
27 comply with the principles of intergenerational responsibility.

28 Sec. 6. – For purposes of, or in relation to expropriation, it is hereby declared  
29 that mining is not for a public purpose.

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

32  
33 **CHAPTER II**  
34 **SCOPE AND GENERAL PRINCIPLES**  
35

36 Sec. 8. *Scope.* – This Act shall govern the ownership, management and  
37 governance of both metallic and non-metallic ore minerals onshore and offshore, as well

1 as quarry resources, sand and gravel, guano, and gemstones, and the conservation,  
2 exploration, development, utilization, processing and transportation thereof. The  
3 ownership, management and governance of petroleum, natural gas and coal shall be  
4 governed by special laws. Offshore mining shall also be governed by special laws.

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

8       Sec. 9. – Ore minerals form part of the country’s irreplaceable and non-  
9 renewable natural wealth and capital. The conservation of our mineral wealth is a  
10 paramount public interest and mineral resources shall be utilized only in a rational  
11 manner for national and local development as specified by law and the National  
12 Industrialization Program and the Mineral Management Plan. The economic benefits  
13 derived from mining shall be equitably distributed by, among others, prioritizing  
14 development for local communities and all other stakeholders directly affected by  
15 mining operations.

16       Sec. 10. – The State shall have primary role, responsibility and concern in the  
17 management, conservation, utilization, and development of the mining industry and  
18 shall ensure the peoples participation in policy making and implementation of the same  
19 at all levels of government. The management of mineral resources shall be a shared  
20 concern and responsibility among the national government, corporations, all levels of  
21 local government, and the communities affected by the exploration, development, and  
22 utilization of mineral resources.

23       Sec. 11. – The State shall accord support to communities dependent on small-  
24 scale mining whose operations shall strictly adhere to the provisions of this law.

25       Sec. 12. – Subject to their right to self-determination, indigenous cultural  
26 communities/ indigenous peoples (ICCs/IPs) own and have the responsibility to manage  
27 the mineral resources in their respective ancestral domains, free from external  
28 manipulation, interference, force threat, intimidation, coercion and other analogous  
29 acts. The State shall support indigenous cultural communities in developing capacities  
30 to effectively exercise their right and responsibility.

31       Sec. 13. – Mining shall be limited in scale in accordance with this Act.

32       Sec. 14. – Mineral resources development, utilization and processing shall be  
33 reserved for Filipino citizens and for Filipino corporations. Exploration shall be  
34 undertaken directly by the State for the benefit of the nation.

35       Sec. 15. – Remining and recycling of mineral resources shall be prioritized over  
36 the opening of new mines to maximize and recover the remaining minerals resources

1 from the rejects or wastes of previous mines and mining operations.

2 Sec. 16. – The State shall prioritize the rehabilitation of the abandoned mines in  
3 the country. The State shall ensure the fullest compliance of all government and  
4 corporate entities in and on the closure of mines, the rehabilitation/restoration of the  
5 immediate environs or each mining project/activity in the country as provided by law.

6 Sec. 17. – The State shall encourage and support Filipino private corporations  
7 and mining cooperatives to participate and invest in the mining industry on mutually-  
8 beneficial grounds that will push forward the National Industrialization Program in both  
9 small-scale and large-scale projects.

10 Sec. 18. – Mineral resource extraction shall be allowed based on the Philippine  
11 Government's National Industrial Plan. The sharing of profits from mining activities,  
12 including the anticipated environmental and social costs on the affected local  
13 communities of each mining project, should far outweigh ecological and social benefits  
14 and costs from other land uses. The anticipated cost of environmental and social  
15 impacts on the affected local communities, which shall at all times be prevented and/or  
16 mitigated through the allocation of sufficient funds for this purpose. In mining projects  
17 with foreign participation, a just return of investment scheme for the foreign entrants  
18 into the industry shall be prescribed by law.

19 Sec. 19. – The State shall prioritize the development of mineral resources needed  
20 for national development and the creation of domestic processing capacity for industrial  
21 metals, the integration of agricultural modernization and other labor-intensive  
22 downstream industries. Mine planning shall be conducted to meet this principle.  
23 The National Industrial Plan shall support national development based on the principles  
24 of sustainable development and modernization of its economic base. This framework  
25 will define minerals to be extracted, volume to be extracted and when to be extracted.  
26 This shall be matched with the approved mining areas as identified by the Councils.  
27 These matched areas are eligible for mining operations.

28  
29 **CHAPTER III**  
30 **DEFINITION OF TERMS**  
31

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

34 a) *Abandonment* – the act of the contractor leaving a mine without  
35 rehabilitating the affected areas or completing such rehabilitation  
36 despite the legal obligation to do the same;

37 b) *Acid mine drainage* – the dissolution, mobilization and transportation of

1 toxic metals from rocks resulting from the chemical reaction of the acid-  
2 generating minerals in rock and waste materials having high  
3 permeability to both air and rainfall and other water inflows when land is  
4 opened up for mining and initiates the chemical reaction, resulting to a  
5 perpetual machine of acid generation;

6 c) *Ancestral domains* – all areas generally belonging to indigenous cultural  
7 communities/indigenous peoples (ICCs/IPs) comprising lands, inland  
8 waters, coastal areas, and natural resources therein, held under a claim  
9 of ownership, occupied or possessed by ICCs/IPs, by themselves or  
10 through their ancestors, communally or individually since time  
11 immemorial, continuously to the present except when interrupted by  
12 war, force majeure or displacement by force, deceit, stealth or as a  
13 consequence of government projects or any other voluntary dealings  
14 entered into by government and private individuals/corporations, and  
15 which are necessary to ensure their economic, social and cultural  
16 welfare. It shall include ancestral lands, forests, pasture, residential,  
17 agricultural, and other lands individually owned whether alienable and  
18 disposable or otherwise, hunting grounds, burial grounds, areas of  
19 worship, bodies of water, mineral and other natural resources, and  
20 lands which may no longer be exclusively occupied by ICCs/IPs but from  
21 which they traditionally and historically had access to for their  
22 subsistence and traditional activities, particularly the home ranges of  
23 ICCs/IPs who are still nomadic and/or shifting cultivators

24 d) *Ancestral lands* – lands occupied, possessed and utilized by individuals,  
25 families and clans who are members of the ICCs/IPs by themselves or  
26 through their predecessors-in-interest, under claims of individual or  
27 traditional group ownership, continuously, to the present except when  
28 interrupted by war, force majeure or displacement by force, deceit,  
29 stealth, or as a consequence of government development aggression  
30 projects and other voluntary dealings entered into by government and  
31 private individuals/corporations including, but not limited to, residential  
32 lots, rice terraces or paddies, private forests, swidden farms and tree  
33 lots;

34 e) *Beneficiation* – a process wherein a large fraction of the waste material is  
35 removed from the mineral ore;

36 f) *Buffer Zones* – identified areas outside the boundaries of and immediately

1 adjacent to designated protected areas designated by law that need  
2 special development control in order to avoid or minimize harm to the  
3 protected area;

4 g) *Bureau* – the Mines and Geosciences Bureau (MGB) under the  
5 Department of Environment and Natural Resources (DENR);

6 h) *Carrying capacity* – the capacity of natural and human environments to  
7 accommodate and absorb change without experiencing conditions of  
8 ecological instability and attendant degradation;

9 i) *Certificate of Ancestral Domains Title (CADT)* – title formally recognizing  
10 the rights of possession and ownership of ICCs/IPs over their ancestral  
11 domains identified and delineated in accordance with law;

12 j) *Certificate of Ancestral Lands Title (CALT)* – a title formally recognizing  
13 the rights of ICCs/IPs over their ancestral lands;

14 k) *Closure of mines* – permanent cessation of operations at a mine or mine  
15 processing site after completion of the decommissioning process;

16 l) *Consensus* – the decision communally reached after appropriate  
17 participatory consultation and discussion, free from any external  
18 manipulation, interference and coercion, and other analogous cases and  
19 obtained after fully disclosing the intent and scope, including the  
20 positive and negative impacts of the activity, in a language and process  
21 understandable to the community or group.

22 m) *Consent* – the free, prior and informed assent of the relevant person/s,  
23 ICCs/IPs, barangay assemblies, landowner or occupant or possessor,  
24 given after fully disclosing the intent and scope, including the positive  
25 and negative impacts of the activity, in a language and process  
26 understandable to said persons or communities or assemblies;

27 n) *Contract area* – the area delineated as specifically provided by a mineral  
28 agreement for the development or utilization of mineral resources found  
29 therein;

30 o) *Critical watershed* – refers to a drainage area of a river system, lake or  
31 water reservoir supporting existing and proposed hydroelectric power,  
32 domestic water supply, geothermal power and irrigation works, which  
33 needs immediate rehabilitation and protection to minimize soil erosion,  
34 improve water yield and prevent possible flooding. The term shall also  
35 include areas which are traditional human settlements, land-uses, or  
36 sea-uses which are representative of a culture/cultures, or human

- 1 interaction with the environment especially when it has become  
2 vulnerable under the impact of irreversible change;
- 3 p) *Critical habitats* – place or environment where species or subspecies  
4 naturally occur or has naturally established its population that are crucial  
5 to the survival of a species and essential for its conservation;
- 6 q) *Cultural sites* – those that bear a unique or at least exceptional testimony  
7 to a cultural tradition or to a civilization which is living or which has  
8 disappeared or, directly or tangibly associated with events or living  
9 traditions, with ideas, or with beliefs, with artistic and literary works of  
10 outstanding universal significance;
- 11 r) *Customary laws* – body of written and/or unwritten rules, usages,  
12 customs and practices traditionally recognized, accepted and observed  
13 by respective ICCs/IPs and local communities;
- 14 s) *Decommissioning* – the activity or process that begins after cessation of  
15 prospecting activities or mineral production (including metallurgical plant  
16 production). It involves, among others, the removal of unwanted  
17 infrastructure, making excavations and waste repositories safe and  
18 stable and surface rehabilitation with a view to negate or minimize any  
19 adverse environmental impacts remaining after cessation of mineral  
20 production. It includes the aftercare or maintenance that may be  
21 needed;
- 22 t) *Downstream industries* – are mining activities that cover minerals  
23 processing, refining, manufacturing of intermediate and capital goods  
24 and marketing of such;
- 25 u) *Ecological profile or eco-profile* – geographic-based instruments for  
26 planners and decision-makers which present an evaluation of the  
27 environmental quality and carrying capacity of an area and measures  
28 the specific interactions that will be affected by any and all mining  
29 operations;
- 30 v) *Exploration* – covers the methods of searching or prospecting for mineral  
31 resources by non-invasive means for the purpose of determining the  
32 existence, extent, quantity and quality thereof, which may include but  
33 not limited to seismic, gravity, magnetic, electromagnetic, radar, induced  
34 polarization, radio-wave and electro geochemical;
- 35 w) *Extraction* – ore-removal activities that take place at the mine site itself;
- 36 x) *Free, prior, and informed consent (FPIC)* – the consensus of all members

1 of the ICCs/IPs to be determined in accordance with their respective  
2 customary laws and practices, free from any external manipulation,  
3 interference, coercion, and other analogous acts and obtained after fully  
4 disclosing the intent and scope, including the positive and negative  
5 impacts, of all the activities, in a language and process understandable  
6 and acceptable to the community;

7 y) *Indigenous peoples/Indigenous cultural communities (IP/ICC)* – refer to  
8 a group of people or homogenous societies identified by self-ascription  
9 and ascription by others, who have continuously lived as organized  
10 community on communally bounded and defined territory, and who  
11 have, under claims of ownership since time immemorial, occupied,  
12 possessed and utilized such territories, sharing common bonds of  
13 language, customs, traditions and other distinctive cultural traits, or who  
14 have, through resistance to political, social and cultural inroads of  
15 colonization, non-indigenous religions and cultures, became historically  
16 differentiated from the majority of Filipinos. ICCs/IPs shall likewise  
17 include peoples who are regarded as indigenous on account of their  
18 descent from the populations which inhabited the country, at the time of  
19 conquest or colonization, or at the time of inroads of non-indigenous  
20 religions and cultures, or the establishment of present state boundaries,  
21 who retain some or all of their own social, economic, cultural and  
22 political institutions, but who may have been displaced from their  
23 traditional domains or who may have resettled outside their ancestral  
24 domains. They are peoples who have a spiritual relationship with the  
25 land;

26 z) *Indigenous political structure* – refers to organizational and cultural  
27 leadership systems, institutions, relationships, patterns and processes  
28 for decision-making and participation, identified by ICCs/IPs such as, but  
29 not limited to, Council of Elders, Council of Timuays, Bodong Holders,  
30 and any other tribunal or body of similar nature;

31 aa) *Joint venture agreement* – an agreement wherein the government and  
32 a qualified person organize a joint-venture company, with both parties  
33 having equity shares, to develop and manage mineral resources. Aside  
34 from earnings on the equity, the Government shall be entitled to a share  
35 in the output computed at a certain percentage mutually agreed upon  
36 by and beneficial to both parties.

- 1 bb) *Key biodiversity areas* – are sites of global biodiversity conservation  
2 significance. They are defined by standardized criteria and thresholds to  
3 guide conservation interventions such as the establishment of protected  
4 areas;
- 5 cc) *Large-scale mining* – mining in areas with more than twenty (20)  
6 hectares, using mechanized tools and equipment, requiring considerable  
7 capital and having large-scale environmental, social, cultural and  
8 economic impacts with regard to resource use and/or consumption;
- 9 dd) *Mineral agreement* – a contract entered into by the government, in  
10 behalf of the State, and a private Filipino person, granting such person/s  
11 the privilege to mine a specific contract area;
- 12 ee) *Mineral resource* – any concentration of minerals/rocks with potential  
13 economic value;
- 14 ff) *Mineral processing* – the milling, beneficiation or upgrading of ores or  
15 minerals and rocks or by similar means to convert the same into  
16 marketable products;
- 17 gg) *Minerals* – all naturally occurring inorganic substance in solid, gas,  
18 liquid, or any intermediate state excluding energy materials such as  
19 coal, petroleum, natural gas, radioactive materials, and geothermal  
20 energy;
- 21 hh) *Mine development* – preparing the mine site for production by shaft  
22 sinking or pit excavation building of access roads, and constructing of  
23 surface facilities;
- 24 ii) *Mine wastes and tailings* –rock materials from surface or underground  
25 mining and milling operations with little or no economic value to the  
26 generator of the same;
- 27 jj) *Mining activity* – any or all of the following activities: exploration,  
28 extraction, utilization, processing, transportation and other activities  
29 conducted for the same;
- 30 kk) *Mining area* – a portion of the contract area which has been identified  
31 by the contractor wherein actual mining operations are conducted;
- 32 ll) *Mining operations* – either all or any of the mining activities involving  
33 exploration, feasibility, development, utilization, and processing;
- 34 mm) *National industrialization* – in the mining industry, this shall denote the  
35 primacy of mineral production, processing and distribution for the  
36 primary benefit of the domestic economy. This includes creating

1 favorable conditions for Filipino entrepreneurs to engage in mining  
2 through various state-private agreements that shall ensure that mining  
3 shall help spur more domestic investments, increase agricultural  
4 production and produce both consumer and producer goods and  
5 manufactures;

6 nn) *National park* – an area of the public domain essentially natural  
7 wilderness, scenic, or historic in character which has been withdrawn  
8 from settlement, occupancy, or any form of exploitation except in  
9 conformity with an approved management plan and set aside exclusively  
10 to conserve the area or preserve the scenery, the natural and historic  
11 objects, wild animals, and plants therein mainly for the purpose of  
12 biodiversity conservation and/or human enjoyment;

13 oo) *Natural forest* – forests composed of indigenous trees, not planted by  
14 man, whose structure, functions, and dynamics have been largely the  
15 result of natural succession processes;

16 pp) *Natural parks* – is a relatively large area not materially altered by  
17 human activity where extractive resource uses are not allowed. These  
18 parks are maintained to protect outstanding natural and scenic areas of  
19 national or international significance for scientific, educational and  
20 recreational use;

21 qq) *Open-pit mining* – Extracting metal ores and minerals that lie near the  
22 surface by removing the overlying material and breaking and loading the  
23 ore. Also known as open-cast mining and open-cut mining;

24 rr) *Ore* – a material that contains minerals in such quantities that it can be  
25 mined and worked commercially to extract that mineral. The mineral is  
26 usually contained in chemical combination with some other element in  
27 addition to various impurities;

28 ss) *Pollution control and infrastructure devices* – infrastructure, machinery,  
29 equipment and/or improvements used for impounding, treating, or  
30 neutralizing, precipitating, filtering, conveying and cleansing mine  
31 industrial waste and tailings as well as eliminating or reducing hazardous  
32 effects of solid particles, chemicals, liquids or other harmful by-products  
33 and gases emitted from any facility utilized in mining operations for their  
34 disposal;

35 tt) *Private land* – any land belonging to any private person which includes  
36 alienable and disposable land being claimed by a holder, claimant, or

1 occupant who has already acquired a vested right thereto under the law,  
2 although the corresponding certificate or evidence of title or patent has  
3 not been actually issued;

4 uu) *Processing* – includes all treatment an ore receives after its extraction  
5 and beneficiation, which involves changes in the chemical nature of the  
6 mined minerals;

7 vv) *Progressive rehabilitation* – rehabilitation which involves the staged  
8 treatment of disturbed areas during exploration,  
9 construction/development and mining operations;

10 ww) *Protected areas* – identified portions of land and water set aside by  
11 reason of their unique physical and biological significance, managed to  
12 enhance biological diversity and protected against destructive human  
13 exploitation;

14 xx) *Protected landscapes, seascapes, marine sanctuaries* – areas of national  
15 significance which are characterized by the harmonious interaction of  
16 man and the environs while providing opportunities for public enjoyment  
17 through recreation and tourism within the bounds of the normal lifestyle  
18 and economic activity of these areas;

19 yy) *Quarry resources* – any common rock or other mineral substances as  
20 the Director of the Mines and Geosciences may declare to be quarry  
21 resources such as, but not limited to, andesite, basalt, conglomerate,  
22 coral sand, diatomaceous earth, diorite, decorative stones, gabbro,  
23 granite, limestone, marble, marl, red burning clay for potteries and  
24 bricks, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff,  
25 volcanic cinders, and volcanic glass, Provided, That such quarry  
26 resources do not contain metals or metallic constituents and /or other  
27 valuable minerals in economically workable quantities; Provided further,  
28 That non-metallic minerals such as kaolin, feldspar, bull quartz, quartz or  
29 silica, sand and pebbles, bentonite, talc, asbestos, barite, gypsum,  
30 bauxite, magnesite, dolomite, mica, precious and semi-precious stones,  
31 and other non-metallic minerals that may later be discovered and which  
32 the Director declares the same to be of economically workable  
33 quantities, shall not be classified under the category of quarry  
34 resources;

35 zz) *Quarrying* – process of extracting, removing and disposing quarry  
36 resources found on or underneath the surface of private or public land;

- 1           aaa) *Regional Director* – the regional director of any mines’ regional office;
- 2           bbb) *Regional Office* – any of the mines’ regional offices;
- 3           ccc) *Recycling* – shall refer to the treating of used or waste materials
- 4                   through a process of making them suitable for beneficial use and for
- 5                   other purposes, and includes any process by which solid waste materials
- 6                   are transformed into new products in such a manner that the original
- 7                   products may lose their identity, and which may be used as raw
- 8                   materials for the production of other goods or services: *Provided*, That
- 9                   the collection, segregation and re-use of previously used packaging
- 10                  material shall be deemed recycling under the Act;
- 11          ddd) *Rehabilitation* – the process by which the land will be returned to a
- 12                  form and productivity in conformity with a prior land use plan including a
- 13                  stable ecological state that does not contribute substantially to
- 14                  environmental deterioration and is consistent with surrounding aesthetic
- 15                  values;
- 16          eee) *Remediation* – removal of pollution or contaminants from
- 17                  environmental media for the general protection of the area and the
- 18                  people;
- 19          fff) *Remining* – maximizing and recovering the remaining minerals from the
- 20                  rejects or wastes of previous mines and mining operations;
- 21          ggg) *Restoration* – where the intent is to recreate an ecosystem as close as
- 22                  possible to the original which existed at the site, with most of the
- 23                  structure and productivity matching that of the original ecosystem, and
- 24                  most of the original biodiversity: in time ecological processes and
- 25                  functions will match those of the original forest;
- 26          hhh) *Self-determination* – refers to the right of a people to determine its
- 27                  own political destiny as defined by existing Philippine laws. The right to
- 28                  self-determination has includes the right of ICCs/IPs to choose their
- 29                  form of government within existing national borders to achieve a greater
- 30                  degree of autonomy to help preserve their culture, ancestral domain,
- 31                  and way of life;
- 32          iii) *Small-scale mining* – mining activities which rely heavily on manual labor
- 33                  using simple implements and methods and do not use explosives or any
- 34                  heavy mining equipment, primarily engaged in for sustainable living.
- 35                  Impacts from small-scale mining shall not be large-scale, otherwise, the
- 36                  mining activity shall be defined as large-scale mining;



1 filing and recording system. A mineral resource database system shall be set up in the  
2 Bureau which shall include, among others, a mineral rights management system.

3       Sec. 25. *Publication.* – The Bureau shall publish at least annually a mineral  
4 gazette of nationwide circulation containing among others, a current list of mineral  
5 rights, their locations specified in the appropriate map, mining rules and regulations,  
6 other official acts affecting mining, and other information relevant to mineral resources  
7 development. A system of publication fund shall be included in the regular budget of  
8 the Bureau.

9       Sec. 26. *Bureau to conduct exploration activities.* – Exploration of mineral  
10 resources shall be exclusively and directly undertaken by the State through the Bureau.  
11 In no case shall this function be delegated or contracted out to private corporations or  
12 persons.

13       Sec. 27. *Non-invasive exploration.* – Exploration activities shall only be non-  
14 invasive such as seismic, gravity, magnetic, electromagnetic, radar, induced polarization,  
15 radio-wave and electro-geochemical.

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

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

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

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

1 is presumed to be part of ancestral domain by virtue of historic rights and self-  
2 delineation by the ICCs/IPs.

3       *Sec. 32. When ICCs/IPs displaced from ancestral domain, and when ancestral*  
4 *domain is already covered by other titles emanating from the State other than*  
5 *CADT/CALT.* – IP/ICC rights over ancestral domain subsists notwithstanding the fact  
6 that the ICCs/IPs who hold such rights have been displaced therefrom or that such  
7 ancestral domains have been occupied by other persons or corporations under another  
8 claim of title emanating from the State. In such cases, ICCs/IPs shall continue to own  
9 such mineral resources.

10       *Sec. 33. Questions on the validity of FPIC.* – In instances that there are questions  
11 on the legality or validity of the issued free, prior, and informed consent, mining  
12 operations shall not be allowed to be conducted in the ancestral domains or lands of the  
13 ICCs/IPs without the final resolution of such question on the legality or validity of the  
14 FPIC.

15       *Sec. 34. Ownership of the State.* – The mineral resources found outside ancestral  
16 domains/lands shall be owned by the State. The State shall ensure that the  
17 management of mineral resources shall be primarily for the benefit of the local  
18 communities in whose territory the same shall be found. Any minerals extracted shall  
19 be solely used for local industries consistent with the Minerals Management Plan. The  
20 State may directly undertake development, utilization and processing of mineral  
21 resources or it may enter into mineral agreements with eligible parties pursuant to the  
22 provisions of this Act.

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

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

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

36       *Sec. 36. Identification of strategic minerals.* – The Bureau shall conduct

1 researches and studies prior to any mining operations to identify strategic mineral  
2 resources. Only mineral resources that shall be needed for local industries, agricultural  
3 modernization and rural development shall be opened to mining subject to the  
4 implementing rules and regulations of this Act.

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

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

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

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

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

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

30       Sec. 42. *Composition of the Multi-Sectoral Mineral Council.* – The Multi-Sectoral  
31 Mineral Council shall be composed of representatives from the Bureau, one  
32 representative from each of the affected provincial governments/independent  
33 component cities/highly urbanized cities, representatives from  
34 peoples/community/sectoral/non-governmental organizations as many as the  
35 representatives of local government units, and the affected ICCs/IPs within the  
36 watershed continuum. The Bureau shall be the convener of the Council.

1 No mining operations shall be allowed without the Council having been properly  
2 convened.

3       Sec. 43. *Areas open to mining.* – The Council shall have the power to determine  
4 whether or not the land where mineral resources are found shall be opened to mining.  
5 Areas may only be opened to mining upon the vote of two-thirds of all the members of  
6 the Council pursuant to the guidelines provided by this Act. In determining whether or  
7 not such area shall be opened, the following shall be required:

- 8       a. Report of the Bureau on the conducted exploration;
- 9       b. Existence of downstream industries for the mineral resources;
- 10      c. Potential environmental impacts;
- 11      d. Potential cultural impacts;
- 12      e. Conflict and risk assessment;
- 13      f. Potential health impacts;
- 14      g. Potential economic benefits of the development and utilization of the  
15         minerals;
- 16      h. Carrying capacity and the ecological profile of the area;
- 17      i. Existing and alternative land uses of the area; and
- 18      j. Local government land use plan.

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

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

- 33       a) Areas declared by Local Government Units as No-Mining Zones as specified by  
34         local ordinances, and other issuances;
- 35       b) Densely populated areas, especially residential areas;
- 36       c) Head waters of watershed areas;

- 1 d) Areas with potential for acid mine drainage;
- 2 e) Critical watersheds;
- 3 f) Critical habitats;
- 4 g) Climate disaster-prone areas;
- 5 h) Geohazard areas;
- 6 i) Small island ecosystems;
- 7 j) Cultural sites, which may include, but not limited to, sacred sites and burial
- 8 grounds;
- 9 k) Traditional swidden farms and hunting grounds;
- 10 l) Lands covered by the Comprehensive Agrarian Reform Law or Republic Act No.
- 11 6657, as amended;
- 12 m) Prime agricultural lands, irrigable and irrigated lands as defined by
- 13 Republic Act No. 9700;
- 14 n) Cultural property enumerated under the National Cultural Heritage Act of 2009
- 15 or Republic act No. 10066;
- 16 o) Community sites;
- 17 p) Key biodiversity areas;
- 18 q) High conflict areas;
- 19 r) The Province of Palawan pursuant to Republic Act No. 7611 and other areas
- 20 covered by local ordinances;
- 21 s) In military and other government reservations, except upon prior written
- 22 clearance by the government agency/agencies concerned;
- 23 t) Near or under public or private buildings, cemeteries, archaeological and
- 24 historic sites, bridges, highways, waterways, railroads, reservoirs, dams or
- 25 other infrastructure projects, public or private works including plantations or
- 26 valuable crops, except upon written consent of the government
- 27 agency/agencies or private entity concerned;
- 28 u) In areas expressly prohibited by law or ordinances;
- 29 v) In areas covered by small-scale miners as defined by law unless with prior
- 30 consent of the small-scale miners, in which case a royalty payment upon the
- 31 utilization of minerals shall be agreed upon by the parties, said royalty forming
- 32 a trust fund for the socioeconomic development of the community concerned;
- 33 and
- 34 w) Old growth, natural or primary and secondary forests, watershed forest
- 35 reserves, wilderness areas, mangrove forests, mossy forests, national parks,
- 36 protection forests, provincial/municipal forests, parks, greenbelts, game refuges

1 and bird sanctuaries and their respective buffer zones prohibited under the  
2 National Integrated Protected Area System (NIPAS) under Republic Act No.  
3 7586, Department Administrative Order No. 25, series of 1992 and other laws  
4 and ordinances and those expressly prohibited by other laws.

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

8 *Sec. 44. Process of determination for opening an area to mining.* – After the  
9 submission of the exploration report and the resource valuation report, the Bureau shall  
10 convene the Council. The Council shall thereafter convene their respective constituents  
11 to determine whether or not their respective territories shall be opened for mining.

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

16 The decision of the respective Sanggunians of all the local government units in the  
17 watershed continuum shall be made in accordance to the sentiment of the peoples of  
18 the local government unit as a result of the consultations conducted.

19 *Provided,* That each Sangguniang Barangay within the watershed continuum shall  
20 convene their respective barangay assemblies for the purpose of this section. Local  
21 government units shall ensure that the Bureau shall comprehensively explain the goals  
22 and objectives of the project or program, its negative and positive impact upon the  
23 people and the community in terms of environmental or ecological balance, and the  
24 measures that will be undertaken to prevent or minimize the adverse effects thereof.  
25 The free prior and informed consent of all barangay assemblies within the watershed  
26 continuum shall be a condition precedent for any mining activity.

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

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

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

34 *Sec. 45. Violation of Section 54.* – Local government officials who are  
35 administratively found to violate the preceding section and Section 54 of this Act vis-à-  
36 vis the pertinent sections of the Local Government Code shall be removed from office

1 and perpetually disqualified from holding any elective or appointive position in  
2 government, its divisions, subsidiaries and any government owned and controlled  
3 corporations.

4       Sec. 46. *Pool of consultants.* – There shall be a pool of independent consultants  
5 that may assist the local government units, local communities or ICCs/IPs with regard  
6 to the technical aspects of mining.

7       Sec. 47. *Publication, posting and radio announcement requirements.* The decision  
8 of the Council shall be published by the Bureau in the local newspaper in the local  
9 language, shall be announced on the local radio programs for not less than six (6)  
10 weeks and notices shall be distributed widely in communities. The notice containing  
11 relevant information shall likewise be posted in conspicuous places for the information  
12 of the general public and shall be announced during the local market day.

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## CHAPTER V MINERAL AGREEMENTS

17       Sec. 48. *Modes of mineral agreement.* – A mineral agreement may only take the  
18 following forms as herein defined;

19       a) *Mineral production sharing agreement* – is an agreement where the  
20 Government grants to the contractor the exclusive right to conduct  
21 mining operations within a contract area and shares in the gross output.  
22 The contractor shall provide the financing, technology, management and  
23 personnel necessary for the implementation of this agreement;

24       b) *Co-production agreement* – is an agreement between the Government  
25 and the contractor wherein the Government shall provide inputs to the  
26 mining operations other than the mineral resource; and

27       c) *Joint venture agreement* – is an agreement where a joint-venture  
28 company is organized by the Government and the contractor with both  
29 parties having equity shares. Aside from earnings in equity, the State  
30 shall be entitled to a share in the gross output.

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

35       Sec. 49. *Eligibility.* – Only Filipino citizens or corporation's sixty percent (60%) of  
36 whose equity is owned or controlled by such citizens shall be allowed to conduct  
37 development, utilization and processing of mineral resources within the country.

1           Sec. 50. *Identification of mining projects.* – With the vote of two-thirds of all the  
2 members of the Council, to open areas for mining operations, the Bureau shall prepare  
3 the necessary information sheets on the said area for potential investments. The Bureau  
4 shall call for proposals to develop the mining area based on the Mineral Management  
5 Plan.

6           Sec. 51. *Pre-screening of mining proposals.* – Mining proposals shall be pre-  
7 screened by the Bureau according to the National Industrialization Program and Mineral  
8 Management Plan upon the submission of interested parties of the following:

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

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

28           Sec. 52. *Environmental and Social Impact Assessment and Mitigation Plan.* – The  
29 contractor shall submit an Environmental and Social Impact Assessment and Mitigation  
30 Plan (ESIAMP) containing the means, methods, processes and schedule by which the  
31 contractor shall conduct its operations and mitigate negative environmental and social  
32 impacts. Social impact shall include possible impacts on the enjoyment and exercise of  
33 human rights, cultural rights. The ESIAMP shall include plans relative to mining  
34 operations; the rehabilitation, regeneration and restoration of mineral areas; slope  
35 stabilization of mined out and tailings covered areas; aquaculture, watershed  
36 development and water conservation; the relocation and return of displaced population;

1 and provisions for alternative livelihood and socioeconomic development.  
2 The ESIAMP shall also contain a Social Development Plan which shall likewise contain  
3 the plans of the proponent for the development of the community through the  
4 establishment of infrastructures and programs that shall be sustainable even after the  
5 closure of the mine.

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

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

12       Sec. 55. *Posting and publication requirement.* – After notice, the Bureau shall  
13 notify the proponent of the accepted proposal and cause the publication and posting of  
14 the accepted proposal.

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

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

22       Sec. 57. *Environmental and Social Impact Compliance Certificate.* – The mining  
23 proponent shall be issued an Environmental and Social Impact Compliance Certificate by  
24 the Bureau with the approval of the Council.

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

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

33       Sec. 58. *Maximum areas for mineral agreements.* – The maximum area under  
34 mineral agreements that a person can hold at any one time shall be determined by the  
35 Council. *Provided,* That the contract area per agreement shall not exceed five hundred  
36 (500) hectares;

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

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

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

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

18 *Sec. 60. Prohibition on open-pit mining method and submarine tailings disposal.*  
19 – Open-pit mining method for the extraction of mineral ores and the submarine tailings  
20 disposal method shall be prohibited.

21 *Sec. 61. Failure to initiate mining operations.* – Failure to commence the  
22 development stage of the mining operations in accordance with the work program  
23 within two (2) years from the award of the mineral agreement shall cause the  
24 cancellation of the mineral agreement. The contractor thereafter forfeits the value of  
25 the improvements made upon the land. The contractor and other corporations who are  
26 also run by the same directors and officers are thereafter banned from bidding to  
27 conduct mining operations for ten (10) years after failure to commence the  
28 development stage of the mining operations in accordance with the work program.

29 *Sec. 62. Mandatory consultations in each mining phase.* – Mandatory  
30 consultations with affected persons and communities shall be undertaken in each phase  
31 of mining operation: exploration, extraction, processing, and mine closure to ensure  
32 that the peoples shall be informed of the proposed plans and methods that are  
33 proposed to be conducted.

34 *Sec. 63. FPIC on each stage of mining operation.* – The free and prior informed  
35 consent of the ICCs/IPs, the barangay assemblies, and private landowners, possessors,  
36 occupants shall be required at each and every stage of the mining operations.

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

6       Sec. 64. *Multi-partite monitoring.* – The Council shall form a multi-partite  
7 monitoring team to monitor compliance by the contractor of the terms and conditions of  
8 the mineral agreement. It may conduct ocular inspections of the contract area at any  
9 time of the day and night. It shall also inspect all the books of contractors and refer the  
10 same to independent auditors. The Multi-partite monitoring team and/or the Bureau  
11 may confiscate surety, performance and guaranty bonds posted through an order to be  
12 promulgated by the Director. The Council, the Director or the local government  
13 authorities may deputize, when necessary, any member or unit of the Philippine  
14 National Police, barangay, duly registered nongovernment organization (NGO) or any  
15 qualified person to police any and all mining activities.

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

24       Sec. 66. *Non-transferability of mineral agreements.* – In no case shall mining  
25 rights under this Act be transferrable. The contractor shall also immediately notify the  
26 Council and the Bureau of any substantial change in the ownership and/or control of  
27 the corporation. Violation of this provision shall cause the cancellation of the agreement  
28 and forfeiture of assets and equipment of the contractor in favor of the State.

29       Sec. 67. *Access to information.* – All contractors for mineral permits and  
30 agreements shall provide information to affected indigenous peoples, local communities,  
31 and local governments. The following information, among others, shall be required:

- 32           a)       The full disclosure of methods and processes of mining;
- 33           b)       The full disclosure of environmental and social risks;
- 34           c)       The full disclosure of ownership structure; and
- 35           d)       The full disclosure of financial sources.

36 All information and documents related to proposals, mineral agreements, permits and

1 mining operations shall not be considered confidential. Refusal to grant access to this  
2 information shall be cause for the disqualification of prospective proponents or  
3 cancellation of mineral agreements and permits.

4 The Bureau, being the repository of all relevant information under this Act is mandated  
5 to grant access to the public of any information in its custody. Refusal or unnecessary  
6 delay by the officers of the Bureau to give information shall be punishable by a fine of  
7 fifty thousand pesos (Php 50,000.00) for every instance of refusal or unnecessary delay.  
8 Information requested by indigents or marginalized sectors shall be given to them for  
9 free.

10  
11 **CHAPTER VI**  
12 **SMALL-SCALE MINING**  
13

14 *Sec. 68. Applicability of RA 7076.* – Small-scale mining shall continue to be  
15 governed by the provisions of Republic Act No. 7076 or the People’s Small-Scale Mining  
16 Act of 1991, *Provided*, That the Provincial/City Mining Regulatory Board shall be  
17 composed of the Governor or City Mayor, as chairperson, as the case may be, a  
18 representative from the DENR as co-chairperson, one (1) small-scale mining  
19 representative, one (1) large-scale mining representative, one representative from a  
20 nongovernment organization who shall come from an environmental group, one  
21 representative from a people’s organization (PO) coming from the marginalized sector,  
22 and at least one (1) representative from the indigenous communities, whenever  
23 applicable, as members. The representatives from the private sector, non-government  
24 organization and indigenous communities shall be selected by their respective  
25 organizations and/or communities, and appointed by the PMRB or CMRB: *Provided*  
26 *further*, That the conduct of small-scale mining shall also comply with the prohibitions  
27 and regulations established herein for large-scale mining. Only qualified individuals and  
28 cooperatives may apply for a small-scale mining permit.

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

31 *Sec. 70. Traditional small-scale mining within ancestral domains.* – The Council  
32 shall conduct regular monitoring activities within its jurisdiction to determine if the  
33 provisions of relevant laws are complied with in traditional small-scale mining by  
34 ICCs/IPs within their respective ancestral domains.

35 *Sec. 71. FPIC in small-scale mining.* – Small-scale mining activities within any  
36 ancestral domain by any person shall also require the free, prior, and informed consent  
37 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  
3 Impact Compliance Certificate. All small-scale mining applicants or proponents must  
4 show proof of compliance with the terms and conditions of its Environmental and Social  
5 Impact Compliance Certificate (ESICC) prior to the issuance of a small-scale mining  
6 permit. Failure to submit this requirement will result in the non-issuance of the small-  
7 scale mining permit (SSMP).

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

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

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

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

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

32           Sec. 77. *Buying stations.* – The Bangko Sentral ng Pilipinas shall ensure that  
33 buying stations acquire gold from small-scale traders at prevailing international gold  
34 market prices and the prevailing exchange rate set by the BSP Treasury Department on  
35 a daily basis.

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**CHAPTER VII**  
**QUARRY RESOURCES**

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

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

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

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

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

Sec. 81. *Cancellation of Quarry Permit.* – A quarry permit may be cancelled by the provincial governor for violations of the provisions of this Act or its implementing rules and regulations or the terms and conditions of said permit: *Provided,* That before the cancellation of such permit, the holder thereof shall be given the opportunity to be

1 heard in an investigation conducted for the purpose.

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

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

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

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

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

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

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



1 of violation of any provision of this Act and its implementing rules and regulations.  
2 After due process, a mineral processing permit may be suspended, revoked or cancelled  
3 by the DENR for violation of its terms and conditions, or of pertinent laws, rules and  
4 regulations.

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

9  
10 **CHAPTER IX**  
11 **DEVELOPMENT OF COMMUNITIES, SCIENCE, AND TECHNOLOGY**  
12

13 *Sec. 94. Expenditure for community development.* – A contractor shall assist in  
14 the development of the community, and the promotion of the general welfare of its  
15 inhabitants towards sustainable development. Community development projects shall in  
16 no way decrease the obligation of the corporation with regard to royalties and fees due  
17 to communities or local government units. Community development projects should be  
18 consistent with the Comprehensive Land Use Plans (CLUP), Ancestral Domains  
19 Sustainable Development and Protection Plan (ADSDPP) and annual investment plans of  
20 the local governments, CADT/CALT holders and the like.

21 *Sec. 95. Employment of Filipinos and training of members of the local*  
22 *community.* – A contractor and/or permittee shall give preference to Filipino citizens in  
23 all types of mining employment within the country. Members of the local community  
24 shall be trained in all aspects of the mining operations, including re-mining, recycling,  
25 rehabilitation, and the management thereof.

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

30 *Sec. 97. Donation/turnover of facilities.* – Prior to the cessation of mining  
31 operations occasioned by abandonment or withdrawal of operations, on public lands by  
32 the contractor, the latter shall have a period of one (1) year therefrom within which to  
33 remove improvements; otherwise all the infrastructure, facilities and equipment shall be  
34 turned over or donated tax-free to the proper government authorities, national or local,  
35 to ensure that said infrastructure facilities and equipment are continuously maintained  
36 and utilized by the host and neighboring communities. A fine of one hundred thousand  
37 pesos (PHP100,000.00) shall be imposed for every day of delay.

1  
2 **CHAPTER X**  
3 **BENEFIT SHARING, TAXES AND FEES**  
4

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

- 7           a) contractor’s income tax;  
8           b) customs, duties and fees on imported capital equipment;  
9           c) value-added tax on imported goods and services;  
10          d) withholding tax on interest payments on foreign loans;  
11          e) withholding tax on dividends to foreign stockholders;  
12          f) documentary stamps taxes;  
13          g) capital gains tax;  
14          h) excise tax on minerals;  
15          i) local business tax;  
16          j) real property tax;  
17          k) community tax;  
18          l) occupation fees;  
19          m) registration, accreditation, and permit fees; and  
20          n) water usage fees.

21       Sec. 99. *Government share.* – Aside from the taxes and fees referred to in the  
22 preceding section, Government shall have at least a share equivalent to ten per cent  
23 (10%) of the gross revenues from the development and utilization of mineral resources  
24 that are owned by it to be set aside for the general fund of the government to be used,  
25 among others, for special projects such as energy development and generation and the  
26 management and conservation of protected areas in areas within the vicinity or  
27 adjacent to mining operations.

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

1 and acceptable to them.

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

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

12       Sec. 103. *Local Government Unit share.* – Local Government Units shall be  
13 entitled to a share of the net revenues from mining operations which shall be paid  
14 directly to the provincial/independent component city/highly urbanized city treasurer/s  
15 for distribution to other local government units. To determine the government share,  
16 the following variables shall be considered:

- 17           a)       Classification of local government;
- 18           b)       Vulnerability; and
- 19           c)       Human development index.

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

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

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

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

36       Sec. 107. *General rule on profit repatriation.* – Contractors with foreign financial

1 assistance shall be allowed to repatriate their profits from mining projects that should  
2 not exceed fifty percent (50 %) of the total posted at the end of every fiscal year. Full  
3 disclosure of profits is required. The full repatriation of profits shall be allowed one year  
4 after the cessation of mining activities and the progressive rehabilitation of a mining  
5 area as specified in the mineral agreement of each contractor.

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

9  
10 **CHAPTER XI**  
11 **SAFETY AND ENVIRONMENTAL PROTECTION**

12  
13 **A. SAFETY**  
14

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

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

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

28 Sec. 111. *Safety of workers.* – All mining companies shall provide safeguards to  
29 the health and well-being of workers. The Regional Office of the Department of Labor  
30 and Employment shall inspect all mining sites within their areas of jurisdiction to  
31 determine the conditions of workers. Denial of entry shall be punishable under this Act.  
32 Representatives of labor unions shall also have visitorial rights.

33 Sec. 112. *Mine inspection.* – The mines regional directors and the Council shall  
34 have jurisdiction over the safety inspection of all installations, surface or underground,  
35 in mining operations at reasonable hours of day or night and as much as possible in a  
36 manner that will not impede or obstruct work in progress of a contractor or permittee.  
37 Monitoring reports and recommendations of the Bureau shall be submitted to the  
38 Council.



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

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

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

29           Sec. 119. *Progressive rehabilitation.* – Contractors shall also conduct progressive  
30 rehabilitation activities.

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

1           Sec. 121. *Adoption of Polluter Pays Principle.* – Polluters shall pay for the damage  
2 they cause to the environment. The amount of damages shall be determined by  
3 accredited independent consultants, to be chosen from a list and agreed upon by both  
4 the mining proponent and by the Council.

5           Sec. 122. *Tailings impoundment.* – Tailings impoundments shall be built away  
6 from critical watershed drainage areas. Furthermore, it shall be ensured that  
7 impoundments will not endanger critical watershed areas or low-lying valleys in the  
8 event of accidents under abnormal conditions. Tailing impoundments and dams shall  
9 meet the international standards for large dams.

10          Sec. 123. *Dumping of waste.* – Dumping of waste or tailings in any body of water  
11 shall be prohibited. Provisions on the Clean Water Act and Clean Air Act shall be strictly  
12 implemented.

13          Sec. 124. *Use of toxic chemicals and methods.* – At all times, mining contractors  
14 shall use chemicals or reagents which would result to the least environmental and social  
15 destruction. The use of mercury and cyanide for the extraction of gold, silver and other  
16 minerals shall be prohibited. The use of blow torching to separate gold from amalgam  
17 shall likewise be prohibited.

18          Sec. 125. *Preservation of topsoil.* – The removed topsoil, or the more productive  
19 horizons of the soil shall be preserved for other uses.

20          Sec. 126. *Priority use for water.* – The National Water Resources Board shall  
21 investigate any existing use of water resources in the area whether or not covered by  
22 any existing water permit or registration. Upon determination of any existing use, the  
23 applicant shall procure the consent of all water users and/or the free prior and informed  
24 consent of ICCs/IPs with or without water permits within the same groundwater  
25 network or any downstream users of water resources. In all instances, priority shall be  
26 given to use of water for domestic, municipal, and agricultural purposes. If potential  
27 negative impact on other water users is identified, the water permit shall not be  
28 granted. For water resources within the ancestral domain of indigenous peoples, no  
29 water permit shall be granted by the National Water Resources Board without the free  
30 and prior informed consent of indigenous peoples.

31          Sec. 127. *Recycling of water resources.* – Water used in mining operations shall  
32 be recycled. Mining contractors shall be required to provide for the methods or  
33 equipment for the recycling or reuse of water. Released contaminated water shall be  
34 treated accordingly to meet national standards. Released water must at least be  
35 equivalent in quality to the baseline water quality.

36          Sec. 128. *Water user fee.* – A water user fee that reflects the value of water to

1 the country and community shall be imposed by the Council for water used in mining  
2 operations. Contractors shall pay the fee to the National Water Resources Board which  
3 shall use the same for monitoring and improvement of the affected waterways and  
4 systems and the mitigation of negative impacts thereon to ensure that communities  
5 shall have access to clean water.

### 6 7 **C. ACID MINE DRAINAGE** 8

9       Sec. 129. *Prohibition from using acid-generating waste rock to build roads or*  
10 *dams.* – To prevent or mitigate acid mine drainage, there shall be a prohibition against  
11 using acid-generating waste rock to build roads or dams or other infrastructures. The  
12 use of such materials shall only be used after treatment to neutralize the effect of acid  
13 mine drainage.

14       Sec. 130. *Establishment of a prediction and monitoring system.* – The Bureau  
15 shall establish a prediction and monitoring system to identify potential acid-producing  
16 materials and monitor their production of acid waste.

17       Sec. 131. *Avoidance of waterways.* – Open pits, waste rock piles and tailings  
18 impoundments shall not be built near or on waterways to prevent contact and  
19 subsequent acid production and groundwater contamination.

20       Sec. 132. *Remining.* – Remining shall be prioritized over the opening of new  
21 mines to maximize and recover the remaining minerals from the rejects or wastes of  
22 previous mines and mining operations, *Provided,* That remining operations shall follow  
23 the processes, standards, parameters and guidelines set for mining operations in this  
24 Act.

25       Sec. 133. *Suits after the termination of contracts or projects.* – Recognizing that  
26 the effects of mining may be seen or felt, actions relating to the health of affected  
27 communities or peoples, environmental degradation and other similar effects may be  
28 maintained against the project proponent and/or persons even after the mineral  
29 agreement or mining project has terminated.

### 30 31 **CHAPTER XII** 32 **RESOLUTION OF CONFLICTS** 33

34       Sec. 134. *Panel of arbitrators.* – There shall be a panel of arbitrators in the  
35 regional office of the Department composed of three (3) members, two (2) of whom  
36 must be members of the Philippine Bar in good standing and one a licensed mining  
37 engineer or a professional in a related field, and duly designated by the Secretary as

1 recommended by the Mines and Geosciences Bureau Director. Those designated as  
2 members of the panel shall serve as such in addition to their work in the Department  
3 without receiving any additional compensation As much as practicable, said members  
4 shall come from the different bureaus of the Department in the region. The presiding  
5 officer thereof shall be selected by the drawing of lots. His tenure as presiding officer  
6 shall be on a yearly basis. The members of the panel shall perform their duties and  
7 obligations in hearing and deciding cases until their designation is withdrawn or revoked  
8 by the Secretary. Within thirty (30) working days, after the submission of the case by  
9 the parties for decision, the panel shall have exclusive and original jurisdiction to hear  
10 and decide on the following:

- 11 a) Questions involving compliance with the established technical guidelines  
12 and standards herein established, or those to be established by the  
13 implementing rules and regulations of this Act;
- 14 b) Questions involving the compliance with technical procedures herein  
15 established, or those to be established by the implementing rules and  
16 regulations; and
- 17 c) Other similar instances wherein the technological and technical expertise  
18 of the Department shall be needed.

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

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

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

32 Sec. 136. *Mines Adjudication Board (MAB).* – The Mines Adjudication Board shall  
33 be composed of three (3) members. The Secretary of the DENR shall be the  
34 Chairperson with the Director of the Mines and Geosciences Bureau and the  
35 Undersecretary for Operations of the Department as members thereof. The Board shall  
36 have the following powers and functions:

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

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

36 A petition for review by certiorari and question of law may be filed by the aggrieved

1 party with the Supreme Court within thirty (30) days from receipt of the order or  
2 decision of the Board.

3  
4 **CHAPTER XIII**  
5 **ACCESS TO JUSTICE**  
6

7 *Sec. 137. Obligation to respect human rights.* – Corporations shall respect,  
8 protect and promote the human rights of communities affected by mining, including the  
9 right to life, liberty and property, freedom of movement, right of public participation and  
10 the right to self-determination of indigenous cultural communities.

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

21 *Sec. 139. Use of paramilitary and military forces.* – All mining companies are  
22 strictly prohibited from employing paramilitary groups. Use of private and military  
23 forces shall result in the automatic cancellation of the mineral agreement and the filing  
24 of appropriate civil, criminal and/or administrative charges.

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

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

37 *Sec. 142. Application of the customary laws of ICCs/IPs.* – The contractor shall

1 respect the customary laws of the ICCs/IPs and shall submit to the processes of their  
2 customary laws, *Provided*, That these laws are not contrary to the provisions of the  
3 Constitution.

4 Sec. 143. *Strict liability.* – Mining corporations are strictly liable for all damages  
5 that the mining operations might cause. In case of any actual damage, the burden of  
6 proof shall lie with the corporations.

7 Sec. 144. *Piercing the corporate veil.* – When the separate personality of the  
8 corporation from its shareholders is being invoked as defense in order to perpetuate a  
9 crime, fraud or other machinations, or evade liability, the separate personality of the  
10 corporation shall be set aside. Civil, criminal and administrative actions may thus be  
11 filed directly against the members of the Board of Directors, officers and/or individual  
12 stockholders.

13 Sec. 145. *Citizen suits.* – For the purpose of enforcing the provisions of this Act  
14 or its implementing rules and regulations, any citizen may file appropriate civil, criminal  
15 and administrative suits against any of the following:

- 16 a) Any person who violates or fails to comply with the provisions of this Act  
17 or its implementing rules and regulations;  
18 b) Any public officer with respect to orders, rules and regulations  
19 inconsistent with this Act; or  
20 c) Any public officer who willfully or grossly neglects the performance of an  
21 act specifically enjoined as a duty by this Act or its rules and regulations;  
22 or abuses the authority in the performance of a duty or duties under this  
23 Act or its implementing rules and regulations.

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

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

30  
31 **CHAPTER XIV**  
32 **PENAL PROVISIONS**  
33

34 Sec. 146. *Grounds for the cancellation of mineral agreements and permits.* –

- 35 a) Violation of any provision of this Act;  
36 b) Human rights violations perpetrated by the contractor or any agent of  
37 the contractor;

- 1 c) Non-payment of taxes;
- 2 d) Bribery, use of force, intimidation, threat, coercion of public officials and
- 3 communities;
- 4 e) Any act that shall create or contribute to conflicts; and
- 5 f) Other analogous acts.

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

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

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

16 *Sec. 148. Illegal exploration.* – Any person undertaking exploration work without  
17 the necessary exploration permit shall, upon conviction, be penalized by a fine of not  
18 exceeding Five Million pesos (P5,000,000.00).

19 *Sec 149. Theft of minerals.* – Any person extracting minerals and disposing the  
20 same without a mining agreement, lease, permit, license, or steals minerals or ores or  
21 the products thereof from mines or mills or processing plants shall, upon conviction, be  
22 imprisoned from six (6) months to six (6) years or pay a fine from One Hundred  
23 thousand pesos (P100,000.00) to One Million pesos (PhP1,000,000.00) or both, at the  
24 discretion of the appropriate court. In addition, he shall be liable to pay damages and  
25 compensation for the minerals removed, extracted, and disposed of. In the case of  
26 associations, partnerships, or corporations, the president and each of the directors  
27 thereof shall be responsible for the acts committed by such association, corporation, or  
28 partnership.

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

34 *Sec. 151. Destruction of mining structures.* – Any person who willfully destroys or  
35 damages structures in or on the mining area or on the mill sites shall, upon conviction,  
36 be imprisoned for a period not to exceed five (5) years and shall, in addition, pay

1 compensation for the damages which may have been caused thereby.

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

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

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

17       Sec. 155. *Vitiating of FPIC.* – Any person found to have vitiated the consent of  
18 the ICCs/IPs through bribery, threat, force, and/or intimidation, or any other similar  
19 means, shall suffer the penalty of six (6) years and one (1) day to ten (10) years in  
20 prison, and a fine of at least two million pesos (PhP 2,000,000.00). If the perpetrator is  
21 a government official, the penalty shall be eight (8) years and one (1) day to twelve  
22 (12) years imprisonment, and a fine of at least four (4) million pesos (PhP  
23 4,000,000.00). He/she shall be perpetually prohibited from assuming public office and  
24 shall be disqualified from receiving other benefits by virtue of his/her position in  
25 government.

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

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



1           Sec. 166. *Separability Clause.* – The provisions of this Act are hereby declared to  
2 be separable and, in the event of any such provisions are declared unconstitutional, the  
3 other provisions which are not affected thereby shall remain in force and effect.

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

8           Sec. 168. *Funds.* – The amount of One Hundred Billion Pesos (PhP  
9 100,000,000,000.00) is hereby appropriated for the proper functioning of the Bureau,  
10 the Council, and other bodies established under this Act of which half of the said  
11 amount shall be allotted for the baseline mineral exploration activities of the Bureau.

12           Sec. 169. *Implementing Rules and Regulations.* – The implementing rules and  
13 regulations of this Act shall be the product of joint collaboration by the Department, and  
14 representatives from the local government units, peoples' organizations, sectoral  
15 organizations and non-governmental organizations, and shall be drawn up after  
16 appropriate and exhaustive public consultations at all levels nationwide.

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

*Approved,*