


FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

8 JUN 11 P3:21

SENATE
S. B. No. 2398

RECEIVED BY: 

INTRODUCED BY HONORABLE MAR ROXAS

EXPLANATORY NOTE

In keeping with the State policy of maintaining a balance between socio-economic growth and environmental protection, Presidential Decree 1586 was enacted in June 11, 1978. Pursuant to P.D. 1586, all persons, partnerships or corporations are required to secure an Environmental Compliance Certificate (ECC) before undertaking any environmentally critical project or operate in an environmentally critical area.

However, reports show that numerous environmentally critical projects continue to be undertaken without the requisite ECC. A Newsbreak article dated May 22, 2008 reported the continued construction of the Crown Regency Hotel project in Boracay despite the cease and desist order issued by the DENR for lack of the necessary ECC. The Hanjin Condominium project in the Subic Bay rainforest areas was also reported in an April 14, 2008 Philippine Daily Inquirer article to have been completed by 20% before an ECC was issued. Worse, environmentally critical projects like mining are being undertaken within ancestral domains, not only without securing an ECC, but also without complying with the requirement of free and prior informed consent (FPIC) under the Indigenous People's Rights Act of 1997. In fact, members of the Binongan Tribe in Baay-Licuan, Abra, have been calling for the pullout of two mining companies that have started exploration activities in their ancestral domain without their free and prior informed consent, as reported in a Philippine Daily Inquirer article dated April 21, 2008.

Considering all the foregoing, this proposed bill provides for a strict compliance to the requirements of Presidential Decree 1586 by strengthening the penal sanctions for failing to secure an ECC or for non-compliance with its conditions. Further, this bill affords more protection and relief to members of indigenous cultural communities by making persons or corporations who undertake activities and projects within ancestral domains without complying with the twin requirements of FPIC and ECC liable for damages. Thus, violators will be fined three times the amount necessary to rehabilitate the damaged area, in addition to the amount of damages paid to the Indigenous Cultural Community. Further, subsequent violations will also be made punishable by imprisonment ranging from one to five years.

Clearly, there is a need to strengthen the penal sanctions of P.D. 1586, if we are to ensure the protection and preservation of our environment and natural resources.


In view of the foregoing, early passage of this bill is earnestly requested.


M A R ROXAS
Senator

FOURTEENTH CONGRESS OF THE)
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AN ACT

INCREASING THE PENALTIES IMPOSED AGAINST FAILURE TO SECURE AN ENVIRONMENTAL CLEARANCE CERTIFICATE FOR UNDERTAKINGS IN ANCESTRAL DOMAINS AND OTHER CRITICAL AREAS OR FOR VIOLATIONS OF THE TERMS AND CONDITIONS THEREOF, THEREBY AMENDING PRESIDENTIAL DECREE 1586 AND FOR OTHER PURPOSES

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

1 SECTION 1. *Amendment of Presidential Decree No. 1586.* - Section 9 of PD 1586, is
2 hereby amended to read as follows:
3 "Section 9. Penalty for Violation. - Any person, corporation,
4 partnership found violating Section 4 of this Decree, or the terms and
5 conditions in the issuance of the Environmental Compliance Certificate, or the
6 standard rules and regulations issued by the [National Environmental
7 Protection Council] ENVIRONMENTAL MANAGEMENT BUREAU (EMB)
8 pursuant to this Decree shall be punished by the suspension or cancellation of
9 his\its certificate and [/or] a fine in the amount [not to exceed Fifty Thousand
10 Pesos (P50,000.00) for every violation thereof, at the discretion of the National
11 Environmental Protection Council] OF THREE (3) TIMES THE ESTIMATED
12 MONETARY COST OF REHABILITATING AND CLEANING THE
13 DAMAGED PORTION OF THE ENVIRONMENT, AS DETERMINED BY

1 THE EMB, WHICH IN NO CASE SHALL BE LESS THAN FIVE HUNDRED
2 THOUSAND PESOS (P500,000.00). SUBSEQUENT VIOLATORS SHALL BE
3 IMPOSED THE PENALTY OF IMPRISONMENT OF PRISION
4 CORRECCIONAL.

5 WHERE AN ENVIRONMENTALLY CRITICAL PROJECT IS
6 UNDERTAKEN INSIDE AN ANCESTRAL DOMAIN WITHOUT THE
7 NECESSARY FREE AND PRIOR INFORMED CONSENT OF THE
8 INDIGENOUS CULTURAL COMMUNITY LIVING IN SUCH ANCESTRAL
9 DOMAIN AS MANDATED BY THE PROVISIONS OF THE INDIGENUOUS
10 PEOPLE'S RIGHTS ACT OF 1997 AND IN VIOLATION OF SECTION 4 OF
11 THIS ACT, THE PERSON, PARTNERSHIP OR CORPORATION SHALL
12 ALSO BE LIABLE TO PAY THE INDIGENOUS CULTURAL COMMUNITY
13 AN AMOUNT TO BE DETERMINED BY THE EMB BUT IN NO CASE LESS
14 THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00) AS DAMAGES.
15 FOR PURPOSES OF THIS SECTION, AN ENVIRONMENTALLY CRITICAL
16 PROJECT REFERS TO A PROJECT THAT HAS A HIGH POTENTIAL FOR
17 SIGNIFICANT NEGATIVE ENVIRONMENTAL IMPACT AND IS LISTED
18 AS SUCH UNDER PRESIDENTIAL PROCLAMATION NO. 2146 SERIES OF
19 1981, PRESIDENTIAL PROCLAMATION NO. 803, SERIES OF 1996, AS
20 WELL AS OTHER PROJECTS WHICH THE PRESIDENT MAY PROCLAIM
21 AS ENVIRONMENTALLY CRITICAL IN ACCORDANCE WITH SECTION 4
22 OF PD 1586.

23 IN CASE OF CORPORATIONS, PARTNERSHIPS OR OTHER FORMS
24 OF BUSINESS ORGANIZATIONS, THE PENALTY OF IMPRISONMENT
25 SHALL BE IMPOSED UPON THE PRESIDENT, THE GENERAL MANAGER
26 OR THE OFFICER DEEMED RESPONSIBLE FOR THE VIOLATION."

1 SECTION 2. *Repealing Clause.* - Any provision of law, decree, executive order or
2 issuance inconsistent herewith is hereby repealed and/or modified accordingly.

3 SECTION 3. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after the
4 completion of its publication in the Official Gazette or in at least two (2) national newspapers
5 of general circulation.

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7 Approved,