

SENATE

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P. S. Res. No. 35

RECEIVED BY: *ji*

Introduced by: Sen. Ralph G. Recto

A RESOLUTION

DIRECTING THE SENATE COMMITTEES ON ECONOMIC AFFAIRS AND ON ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, ON THE REPORTED ABUSIVE PRACTICES IN THE GRANT AND USE OF VARIOUS MINING PERMITS UNDER REPUBLIC ACT NO. 7942 OR THE PHILIPPINE MINING ACT OF 1995, WITH THE END IN VIEW OF PREVENTING SUCH ABUSIVE PRACTICES

WHEREAS, Section 2, Article XII of the Constitution states that: "All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State";

WHEREAS, the same section of the Constitution also mandates that the exploration, development, and utilization of natural resources shall be under the full control and supervision of the State and that it may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens;

WHEREAS, the provision continues to state that: "Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law";

WHEREAS, it also states that: "The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country" and that the President shall notify Congress of every contract entered into in accordance with this provision, within thirty days from its execution;

WHEREAS, with these provisions in mind, Congress enacted Republic Act No. 7942 or the Philippine Mining Act of 1995;

WHEREAS, under this law, there are three major kinds of mining rights, to wit: the Exploration Permit (EP), the Mineral Production Sharing Agreement (MPSA) and the Financial or Technical Assistance Agreement (FTAA);

WHEREAS, available data from the Mines and Geosciences Bureau (MGB) under the Department of Environment and Natural Resources (DENR) indicate that there are 398 major mining permits comprising six (6) FTAA's covering 108,872.45 hectares, a total of 339 Mineral Production Sharing Agreements (MPSA) covering 602,012.21 hectares and 53 Exploration Permits (EP) covering 226,671.07 hectares as of February 28, 2013¹;

WHEREAS, safeguards provided for under Republic Act No. 7942 have failed to prevent

¹ Mining Industry Statistics. Mines and Geosciences Bureau-DENR. Release date 02/2/2013.

abuses in the grant and use of these mining permits throughout the country;

WHEREAS, the application and grant of permits, especially in mineral agreements, has reportedly become a downstream money-making venture through speculation contrary to the mineral resource exploration, development and utilization objectives of small and medium mining companies;

WHEREAS, so-called unscrupulous firms rush to identify and apply for mining permits all throughout the country with the ultimate purpose of merely selling such permits to other mining companies;

WHEREAS, there are reports that the person or firm who is first to apply for a permit within a specified area, barring any exclusion under the law, is usually granted the mining contract or agreement without due diligence on the part of concerned government agencies such as the MGB-DENR;

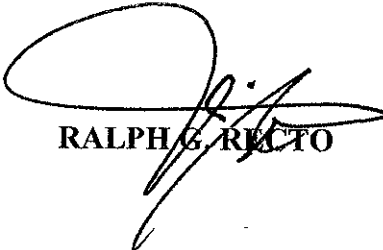
WHEREAS, reports also indicate that if the area applied for turns out to have mineral deposits, the unscrupulous person or mining firm then sells the right, through the transfer or assignment provisions of mining rights or through other means under Republic Act No. 7942;

WHEREAS, these kinds of abusive practices in the mining industry defiles the real intent of the Philippine Mining Act of 1995 to promote the rational exploration, development, utilization and conservation of the country's natural resources through the combined efforts of government and the private sector in order to enhance national growth;

WHEREAS, Congress needs to correct perceived loopholes in the law and prevent such abusive practices from taking place;

Now Therefore, Be It Resolved, by the Philippine Senate, to direct the Senate Committees on Economic Affairs and on Environment and Natural Resources to conduct an investigation, in aid of legislation, on the reported abusive practices in the grant and use of different kinds of mining permits under Republic Act No. 7942 or the Philippine Mining Act of 1995, with the end in view of amending the law to prevent such abusive practices.

Adopted,


RALPH G. RECTO