

24 JUL 23 P1:21

SENATE

S. NO. 2747

RECEIVED BY



Introduced by Senator Francis "Tol" N. Tolentino

**AN ACT GRANTING JURIDICAL PERSONALITY AND LEGAL CAPACITY TO
THE LOSS AND DAMAGE FUND BOARD IN THE PHILIPPINES**

EXPLANATORY NOTE

The United Nations Framework Convention on Climate Change (UNFCCC) is a multilateral treaty adopted in 1992 and is currently composed of 198 countries, who have joined together to measure progress and negotiate multilateral responses to climate change. It has provided the basis for various international climate negotiations, including the Kyoto Protocol of 1997 and the Paris Agreement of 2015.

The Conference of the Parties (COPs) have created global milestones for the climate movement, setting standards and advancing action, including on reducing carbon emissions, accelerating a global energy transition, and helping countries adapt and build resilience to compounding climate issues. COPs are crucial in bringing governments together while also mobilizing the private sector, civil society, industry and individuals to tackle the climate crisis.¹

During the COP 27 of the UNFCCC in 2022, the Parties agreed to establish a loss and damage fund, aimed to provide financial assistance to nations particularly vulnerable and impacted by the adverse effects of climate change. Loss and damage refer to the negative consequences that arise from the unavoidable risks of climate change, like sea level rise, prolonged heat waves, desertification, acidification of the sea, and extreme events.²

In 2023, during the COP 28, the Parties adopted the operationalization of the Loss and Damage Fund (L&D Fund).³ The L&D Fund will be governed and supervised by a Board composed of 26 members representing an equitable and balanced representation of all Parties. Thereafter, President Ferdinand R. Marcos, Jr. announced

¹<https://www.un.org/en/climatechange/un-climate-conferences#:~:text=The%20UN%20Climate%20Change%20Conference%20in%20Sharm%20el%20DSheikh%2C%20Egypt,Celsius%20above%20pre%2Dindustrial%20levels%2C>

² <https://www.unep.org/news-and-stories/story/what-you-need-know-about-cop27-loss-and-damage-fund>

³ <https://unfccc.int/loss-and-damage-fund-joint-interim-secretariat>

his call for the Philippines to host the L&D Fund Board, as this will symbolize Philippines' commitment to inclusivity, and will ensure that the economic and non-economic loss of the countries most affected by climate change will be addressed.⁴ The Philippines has then secured a membership on L&D Fund Board, as permanent representative of the Asia Pacific Group for 2024 and 2026, and as an alternate representative of the Asia Pacific Group for 2025.⁵

According to the World Risk Index 2023, the Philippines topped as the most disaster-prone country in the world.⁶ Manifestations of climate change such as rising temperature, sea level rise, frequency and intensity of typhoons, variability of precipitation, floods, droughts, and heat waves are all experienced in the country.

On 09 July 2024, the Philippines was elected as the host country of the L&D Fund Board. The hosting of the L&D Fund Board reflects the Philippines' ability and commitment to address the critical issue of global climate action and equity.⁷ The benefits of hosting the L&D Fund Board are: (1) showing the firm resolve of the country to be an active voice of the developing world in pushing for the need to respond to loss and damage; (2) enabling the Philippines to promote its national response plans on loss and damage from the impacts of climate-induced hazards and disasters; and (3) increasing awareness in the country regarding international cooperation to addressing the local needs to respond to loss and damage due to the impacts of climate change.

The Philippines has demonstrated a deep commitment in addressing climate change through comprehensive legislative frameworks and proactive measures, including Republic Act No. 9729 or the "Climate Change Act of 2009". The current proposed measure is consistent with the country's commitment to multilateralism and in ensuring that the voices of the most affected by climate change will shape the future of international climate policies.⁸

Moreover, this bill will strengthen the country's commitment in addressing Loss and Damage, as one of the countries greatly impacted by climate change. Included among the Philippines' proposal in hosting the L&D Fund Board is the conferment of legal personality and legal capacity, to include privileges and immunities.

Through this bill, the L&D Fund Board, as the governing body of the L&D Fund, shall be granted juridical personality with full capacity to enter contracts, acquire and dispose properties, institute legal proceedings, enter into hosting agreement with the World Bank, and undertake necessary activities to carry out the purpose for the L&D Fund Board. In order to conclude the domestic requirements, i.e. the grant of juridical personality and legal capacity to the L&D Fund Board, this bill must be given high and

⁴https://pco.gov.ph/news_releases/making-ph-the-host-of-loss-and-damage-fund-to-ensure-countries-most-affected-by-climate-change-are-heard-pbbm/

⁵https://pco.gov.ph/news_releases/pbbm-ph-secures-a-seat-in-inaugural-loss-and-damage-fund-board/

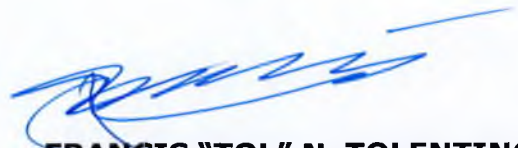
⁶ <https://kpl.gov.la/EN/detail.aspx?id=81794>

⁷ <https://www.pna.gov.ph/articles/1228637>

⁸<https://denr.gov.ph/news-events/the-philippines-wins-bid-to-host-the-loss-and-damage-fund-board/>

utmost priority which shall be enacted not later than ninety (90) days after the confirmation of the Philippines, as the host country.

In light of the foregoing considerations, the passage of this bill is immediately sought.



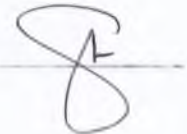
FRANCIS "TOL" N. TOLENTINO
Senator

24 JUL 23 P1:21

SENATE

S. NO. 2747

RECEIVED BY



Introduced by Senator Francis "Tol" N. Tolentino

**AN ACT GRANTING JURIDICAL PERSONALITY AND LEGAL CAPACITY TO
THE LOSS AND DAMAGE FUND BOARD IN THE PHILIPPINES**

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

SECTION 1. *Short Title.* - This Act shall be known and referred to as "The
Loss and Damage Fund Board Act."

SEC. 2. *Declaration of Policy* – It is the policy of the State to advance the
right of the people to a balanced and healthful ecology in accord with the rhythm and
harmony of nature and to protect the climate system for the benefit of humankind.

As a party to the United Nations Framework Convention on Climate Change
("UNFCCC") and the Paris Agreement, the State strongly supports the creation of the
Fund for Responding to Loss and Damage ("L&D Fund") to assist developing countries
that are particularly vulnerable to the adverse effects of climate change in responding
to economic and non-economic loss and damage associated with the adverse effects
of climate change, including extreme weather events and slow onset events.

By virtue of the UNFCCC Decision 1/CP28, 5/CMA.5 on the "Operationalization
of the new funding arrangements, to include a fund for responding to loss and damage
referred to in paragraphs 2-3 of decisions 2/CP.27 and 2/CMA.4":

"the Governing Instrument of the Loss and Damage Fund ("L&D Fund")
was approved, and the Board of the Fund ("Board") will be conferred
with legal personality and the legal capacity as necessary for
discharging its roles and functions. In particular the legal capacity to
negotiate, conclude and enter into a hosting arrangement with the
World Bank as interim trustee and host of the Fund's secretariat.
Noting further Section III C.2 of the Governing Instrument, the Board
will serve the objectives and purpose of the Fund and steer its
operations so that they evolve with its scale and maturity".

1 To facilitate the establishment and operationalization of the Fund, the State
2 hereby grants juridical personality and legal capacity to the Board.

3 **SEC. 3. Juridical Personality and Legal Capacity of the Loss and**
4 **Damage Fund Board** - The Board, as the governing body of the Fund established
5 by the Meeting of Parties to the Paris Agreement under the UNFCCC shall be granted
6 juridical personality with full legal capacity to:

- 7 (a) Contract;
- 8 (b) Acquire and dispose of immovable and movable property;
- 9 (c) Institute legal proceedings;
- 10 (d) Negotiate, conclude, and enter into a hosting arrangement with the
11 World Bank as interim trustee and host of the Fund's secretariat; and
- 12 (e) Undertake related or necessary activities to carry out the purpose for
13 which the Board was created.

14 **SEC. 4. Privileges, Immunities, and Exemptions** - The Board, as an
15 international organization, shall enjoy the status, prerogatives, immunities, privileges,
16 and exemptions granted under the host country agreement entered into with the
17 Government of the Republic of the Philippines.

18 **SEC. 5. Tax Exemptions.** - The Property, operations and transactions of the
19 LDF and its Board shall be exempt from the payment of all taxes, duties, and other
20 charges imposed by the Government and local authorities. The LDF and its Board shall
21 also be exempt from any obligation for the payment, withholding or collection of any
22 tax or duty.

23 The LDF and its Board shall be exempt from the payment of all taxes, duties,
24 and other charges imposed by the Government and local authorities, except charges
25 for storage, transport and services supplied, on the importation of equipment,
26 machinery, motor vehicles, and materials intended for use in the board meeting. The
27 same shall be processed in the manner and under existing procedures applied by the
28 Department of Finance in similarly situated cases.

29 The non-Filipino LDF Officials and invited Experts and Observers shall be
30 exempt from the payment of income tax on salaries, stipends, emoluments,
31 indemnities, and sickness and accident benefits, received from the LDF, regardless of
32 currency used. The Government retains its rights to tax its own nationals. They shall
33 likewise not be subject to taxes on their local purchases in the quantity as appropriate
34 for the duration of the board meeting.

35 The non-Filipino LDF Officials and invited Experts and Observers shall be
36 exempt from the payment of all taxes, duties, and other charges imposed by the
37 Government and local authorities, except charges for storage, transport and services
38 supplied, on the importation of personal effects in the quantity as appropriate for the
39 duration of the board meeting.

1 Goods released tax-free and duty-free under this Agreement shall be subject
2 to applicable taxes and duties if sold, transferred, or exchanged in the Philippines to
3 non-exempt persons or entities, computed based on the value of the goods at the
4 time of the importation pursuant to existing Government rules and regulations.

5 **SEC. 6. *Repealing Clause.*** - All laws, presidential decrees, executive orders,
6 administrative orders, and rules and regulations inconsistent with this Act are hereby
7 repealed, modified, or amended accordingly.

8 **SEC. 7. *Effectivity.*** - This Act shall take effect upon publication in the Official
9 Gazette or in at least two (2) newspapers of general circulation.

Approved,