

FIFTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

OFFICE OF THE SECRETARY
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) 10 JUL -5 P2:22

SENATE

RECEIVED BY

S. B. No. 147

Introduced by SENATOR PIA S. CAYETANO

EXPLANATORY NOTE

Every human being has the right to a healthy environment and it is the responsibility of government to ensure that its people enjoy this right. This principle was made part of the basic state policy clearly expressed in the 1987 Constitution: that ***the state shall protect and promote the right to health of the people and that the state shall protect and advance the right of the people to a balanced and healthful ecology.***

As such, these constitutional provisions should be a guide in view of the government's recent thrust towards a more aggressive mining policy and in light of the latest Supreme Court decision allowing foreign-owned corporations to manage and control mining operations under the Technical or Financial Assistance Agreement (FTAA). The purpose of this bill is to temper this economic strategy by putting in place possible safeguards to protect the environment, ecology and health of the potential mining communities. These safeguards were drawn from the tragic experience of the people of Marinduque due to the Marcopper Mining disaster, with the hope that the said tragedy will never be repeated and should never be experienced by potential mining communities.

Based on the Final Report on the recently concluded Marinduque Independent Environmental and Health Study/Assessment (MEHS), there was no denying the negative effects of Marcopper mining to the environment. However, the direct link of mining on health problems has been inconclusive. This uncertainty stems from the insufficiency of health studies and lack of baseline health data. In fact, the report indicates that the scientists cannot exclude exposure to mine waste as potential cause for concern to poor health within exposed components of the population. They recommended that a careful integrated health surveillance system be implemented to definitely demonstrate cause-effect relationship of mining effects on health. A baseline health data and progressive health data collection are needed to determine the effects of mining on the health of exposed population.

Large-scale mining operations under FTAA exist for a very long period of time lasting twenty-five(25) years and renewable for another 25 years. It is therefore, imperative that assessments on health of the surrounding population are taken before, during and after the mining operations to make sure that there are no negative effects of the mine exposure on the health of the people living in these mining communities. This bill seeks to include a health profile prior to

mining operation, which will provide for a baseline health data, and an independent health assessment every 5 years from the start of operation to constitute part of the Health and Environmental Impact Assessment (EIA)

The State's policy to protect, promote and advance people's right to health and right to balanced and healthful ecology as mandated by the Constitution, underscore the responsibility of the government to ensure that these rights are upheld and should not be compromised. In the light of the government's implementation of its national policy agenda on revitalization of mining the protection of these rights will be best achieved by adopting an independent health assessment as additional environmental and health safeguard.

For these reasons, approval of this Bill is urgently sought.


SENATOR PIA S. CAYETANO

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**AN ACT
INSTITUTING INDEPENDENT HEALTH AND ENVIRONMENTAL
ASSESSMENT FOR ALL MINING PROJECTS, AMENDING FOR THE
PURPOSE THE PHILIPPINE MINING ACT OF 1995**

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

SECTION 1. Section 70 of Republic Act No. 7942 otherwise known as the
Philippine Mining Act of 1995 is hereby amended as follows:

Sec. 70 Health and Environment Impact Assessment (HEIA)
– Except during the exploration period of a mineral agreement or
financial or technical assistance agreement or an exploration permit,
an environment clearance certificate shall be required based on an
environmental impact assessment and procedures under the
Philippine Environmental Impact Assessment System including
Sections 26 and 27 of the Local Government Code of 1991 which
require national government agencies to maintain ecological
balance, and prior consultation with the local government units,
nongovernmental and people's organizations and other concerned
sectors of the community. Provided, That **A COMPEHENSIVE
HEALTH PROFILE OF THE SURROUNDING COMMUNITIES AND**
completed ecological profile of the proposed mining area shall
constitute part of the **HEALTH AND** environmental impact
assessment. Peoples organizations and nongovernmental
organizations shall be allowed and encouraged to participate in
ensuring that contractors/permittees shall observe all the
requirements of environmental protection.

**AN INDEPENDENT HEALTH AND ENVIRONMENTAL
ASSESSMENT OF THE SURROUNDING COMMUNITIES OF THE
MINE SITE SHALL BE CONDUCTED EVERY TWO (2) YEARS
FROM THE START OF THE MINING OPERATION UNTIL TEN
(10) YEARS AFTER ITS CLOSURE, AS MAY BE PROVIDED IN
THE IMPLEMENTING RULES AND REGULATIONS OF THIS ACT.
AN INDEPENDENT ASSESSMENT FUND SHALL BE CREATED
FOR THIS PURPOSE AND SHALL BE DEPOSITED AS A TRUST
FUND IN A GOVERNMENT DEPOSITORY BANK. FAILURE TO
COMPLY WITH THE ABOVE OBLIGATION SHALL CAUSE,
AFTER DUE NOTICE AND HEARING, IMMEDIATE SUSPENSION
OR CLOSURE OF THE MINING OPERATION OF THE
CONTRACTOR/PERMITTEE CONCERNED.**

SEC. 2. Section 71 of Republic Act No. 7942 otherwise known as the Philippine Mining Act of 1995 is hereby amended as follows:

Sec. 71. Rehabilitation **OF MINING AREA AND MEDICAL TREATMENT OF AFFECTED RESIDENTS.** – Contractors and permittees shall technically and biologically rehabilitate the excavated, mined-out, tailings covered and disturbed areas to the condition of environmental safety **AS WELL AS ENSURE MEDICAL TREATMENT OF AFFECTED RESIDENTS FOR ANY ILLNESS ATTRIBUTABLE TO THE MINING ACTIVITY**, as may be provided in the implementing rules and regulation of this Act. A mine rehabilitation and **MEDICAL** fund shall be created based on the contractor's approved work program, and shall be deposited as a trust fund in a government depository bank and used for physical and social rehabilitation of areas and **MEDICAL TREATMENT OF RESIDENTS OF THE** communities affected by mining activities and for research on the social, technical and preventive aspects of rehabilitation. Failure to fulfill the above obligation shall mean immediate suspension or closure of the mining activities of the contractors/permittee concerned.

SEC. 3. This Act shall take effect upon its approval.

Approval,