

SENATE

S.B. No. 1374

Introduced by Senator Loren Legarda

EXPLANATORY NOTE

Under the 1987 Philippine Constitution, it is the policy of the State to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. It is in this sense that the State should strike a balance between economic development and environmental protection.

While current environmental laws provide mechanisms to support the State in endeavouring the said balance, the problems and violations of the same surface after the projects or ventures have already been undertaken.

In 1996, Executive Order No. 291 was promulgated to facilitate the attainment and maintenance of a rational and orderly balance between socio-economic growth and environmental protection. It mandated the establishment of in-house environmental units in all implementing government agencies to ensure compliance of projects with existing standards provided in environmental laws. The EO, which covers government financial institutions (GFIs), was intended to ensure that loan or related funding applications of government and private institutions have complied with the Environmental Impact System.

As the Asian Development Bank (ADB) has asserted in its study in corporate responsibility for environmental performance, "though governments must continue to play a central role in maintaining environmental quality, it is also clear that this traditional focus does not attempt to work directly with the most active financier and player in the development equation—the private sector. While governments determine the rules under which businesses act, the firms themselves use natural resources, make products, and generate pollution. Thus, a sustainable future for the region is not possible without the active engagement of the private sector" (ADB 2005).

In light of the rising corporate social responsibility, especially in the area of environmental protection, financial institutions are now adopting the concept of corporate environmental policy that is grounded on sustainable development. Further, the risk of default as a result of environmental upgrading or costs for works incurred by the borrower and other costs related to environmental risks are aspects that financial institutions consider.

Such are the foundations of this bill, which seeks to instate an environmental unit in lending institutions that will ensure that any loan or related funding applications are in compliance with environment laws. Moreover, monitoring of the project's compliance is continuous until such time when the account is fully paid or the collaterals are released or substituted.

The environmental unit shall be composed of three functional units:

1. Environmental Review and Assessment Unit tasked to ensure the environmental soundness of the project and the account's compliance with environmental laws, thereby avoiding environmental risks;
2. Environmental Policy, Planning and Systems Management Unit tasked to develop/ enhance the lending institutions internal policy to effectively implement the above corporate environmental policy; and
3. Environmental Program Management Unit tasked to develop/ manage grant-assisted environmental programs and assist project management units in developing environment-related lending facilities that will provide services/ support to the bank and its clients.

This proposed measure shall complement the current environmental laws and shall contribute to their sound implementation through the proposed mechanism in place at the initial stage of the project - that is, before it is actualized through funds. The enactment of this measure will help facilitate sustainable development and likewise encourage sound business management.

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


LOREN LEGARDA
Senator

SENATE

S.B. No. 1374

RECEIVED

16

Introduced by Senator Loren Legarda

AN ACT
ESTABLISHING ENVIRONMENTAL UNITS IN EVERY BANKING
INSTITUTION TO ASSESS THE ENVIRONMENTAL COMPONENT OF LOAN
APPLICATIONS

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

1 **SECTION 1. Declaration of Policy.** - It is hereby declared the policy of the
2 State to strike a balance between economic development and environmental
3 protection. In this regard, lending institutions are encouraged to adopt a corporate
4 environmental policy to support environmental protection and sustainable
5 development and to mitigate credit risks arising from adverse impact of loans and
6 other projects for financing in the environment. Pursuant to this policy, loan
7 evaluation, approval and release shall take into consideration the borrower's
8 compliance with applicable environmental laws.

9
10 **SEC. 2.** There shall be created an in-house environmental unit in every
11 lending institution tasked to ensure that any loan or related funding applications of
12 any natural or juridical entity have complied with the Environmental Impact
13 Statement System under Presidential Decree No. 1586.

14
15 **SEC. 3.** Lending institutions shall ensure that projects subject of financing
16 applications and collateral offered as security shall conform to environmental laws.
17 Compliance of projects and collaterals with environmental laws shall be among the
18 basis for approval of environmental units of loan accounts with environmental
19 impact.

20

1 **SEC. 4.** Lending institutions shall encourage continuous compliance with
2 environmental laws. Account officers (AOs) shall continue to monitor compliance of
3 projects and collaterals until such time that the account is fully paid or the collaterals
4 are released or substituted. The AOs shall look into reported complaints against
5 client's projects/collateral.

6
7 Clients shall be required to submit copies of the periodic monitoring reports
8 of the Department of Environment and Natural Resources of their projects/
9 collateral.

10
11 **SEC. 5.** The environmental unit of every lending institution shall prepare an
12 environmental assessment report for all projects and loans with environmental
13 impact. The report shall be integrated into the project proposal and/or loan
14 application.

15
16 **SEC. 6.** The environmental unit shall be composed of three (3) functional
17 units, to wit:

- 18
19 a) Environmental Review and Assessment Unit tasked, which is tasked to
20 ensure the environmental soundness of the project and the account's
21 compliance with environmental laws, thereby avoiding environmental risks;
22 b) Environmental Policy, Planning and Systems Management Unit, which is
23 tasked to develop/ enhance the lending institutions internal policy to
24 effectively implement the above corporate environmental policy; and
25 c) Environmental Program Management Unit, which is tasked to
26 develop/manage grant-assisted environmental programs and assist project
27 management units in developing environment-related lending facilities that
28 will provide services/ support to the bank and its clients.

29
30 **SEC. 7.** The non-compliance of borrowers with applicable environmental
31 laws shall be considered a condition for default.

32
33 **SEC. 8. *Separability Clause.*** - If any provision or part hereof is held invalid or
34 unconstitutional, the provisions not otherwise affected thereby shall remain valid
35 and subsisting.

36

1 *SEC. 9. Effectivity Clause.* -This Act shall take effect fifteen (15) days after its
2 publication in at least two (2) newspapers of general circulation.

3

4 Approved,