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**S E N A T E**

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**INTRODUCED BY SENATORS PIMENTEL, JR.,  
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**AN ACT ENCOURAGING SMALL-SCALE UTILIZATION  
OF MINERAL RESOURCES**

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

1       SECTION 1. *Title.* - This Act shall be known as the "Small-Scale  
2 Mining Act of 1990".

3       SEC. 2. *Declaration of Policy.* - It is hereby declared to be the  
4 policy of the State (a) to encourage small scale utilization of mineral  
5 resources, (b) to promote, develop, protect and rationalize viable  
6 small-scale mining activities to generate employment, and (c) to  
7 provide equitable sharing of the nation's wealth and natural  
8 resources, subject to existing rights as defined and provided in this  
9 Act.

10       SEC. 3. *Definitions.* - For purposes of this Act, the following  
11 terms shall be defined as follows:

12       (a) Mineralized areas refer to areas with naturally occurring  
13 mineral deposits of gold, silver, chromite, kaoline, silica, marble,

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1 gravel, clay and like mineral resources.

2 (b) Small-scale mining refers to mining activities which rely  
3 heavily on manual labor without the use of explosives or heavy  
4 mining equipment.

5 (c) Small-scale miners refer to Filipino citizens who individually  
6 or in the company of other Filipino citizens voluntarily form a part-  
7 nership, cooperative or corporation which shall be one hundred  
8 percent (100%) Filipino-owned, duly licensed by the Department of  
9 Environment and Natural Resources to engage, under the terms and  
10 conditions of a contract, in the extraction or removal of minerals or  
11 ore-bearing materials from the ground.

12 (d) Small-scale mining area refers to a mineral land including  
13 submerged land declared open exclusively for small-scale utiliza-  
14 tion and development, by the Provincial/City Mining Regulatory  
15 Board hereinafter called the Board, as provided for under Sections 24  
16 and 25 hereof.

17 (e) Small-scale mining contract refers to an agreement  
18 between the State and a Small-Scale Mining Contractor for the  
19 small-scale utilization of a plot of mineral land.

20 (f) Small-scale mining contractor refers to an individual, a  
21 partnership, association, corporation or cooperative of small-scale  
22 miners, registered with the Securities and Exchange Commission or  
23 other appropriate government agency which has entered into an  
24 agreement with the State for the small-scale utilization of a plot of  
25 mineral land within a Small-Scale Mining Area.

1 (g) Active mining area refers to a mining area under actual  
2 exploration, development or commercial production, belonging to the  
3 same claim owner or operator as determined by the Board after the  
4 necessary field investigation.

5 (h) Existing mining right refers to a perfected and subsisting  
6 claim, lease, license or permit covering a mineralized area prior to  
7 its declaration as a small-scale mining area.

8 (i) Claim-owner refers to a holder of an existing mining right.

9 (j) Processor refers to a person issued a license to engage in the  
10 treatment of minerals or ore-bearing materials such as by gravity  
11 concentration, leaching beneficiation, cyanidation, cutting, sizing,  
12 polishing and other similar activities.

13 (k) License refers to the privilege granted to a person to  
14 legitimately pursue his occupation as a small-scale miner or processor  
15 under this Act.

16 (l) Mining Plan refers to a two (2) year program of activities and  
17 methodologies employed in the extraction and production of minerals  
18 or ore-bearing materials, including the financial plan and other re-  
19 sources in support thereof.

20 **SEC. 4. Small-Scale Mining Program.** - For the purpose of  
21 carrying out the declared policy provided in Section 2 hereof, there is  
22 hereby established a Small-Scale Mining Program to be implemented  
23 by the Department of Environment and Natural Resources,  
24 hereinafter called the Department, in coordination with other  
25 concerned government agencies, designed to achieve an orderly,

1 systematic and rational scheme for the small-scale development  
 2 and utilization of mineral resources in certain mineral areas in order  
 3 to address the social, economic, technical, and environmental  
 4 problems connected with small-scale mining activities.

5 The Small-Scale Mining Program shall include the following  
 6 features:

- 7 (a) The identification, segregation and reservation of certain  
 8 mineral lands as small-scale mining areas;
- 9 (b) The recognition of prior existing rights and providing  
 10 adequate compensation therefore;
- 11 (c) The encouragement of the formation of cooperatives;
- 12 (d) The extension of technical and financial assistance,  
 13 and other social services;
- 14 (e) The extension of assistance in processing and marketing;
- 15 (f) The generation of ancillary livelihood activities;
- 16 (g) The regulation of the small-scale mining industry with  
 17 the view to encourage growth and productivity; and
- 18 (h) The efficient collection of government revenue.

19 **SEC. 5. Declaration of Small-Scale Mining Areas.** - The Board  
 20 is hereby authorized to declare and set aside small-scale mining areas  
 21 in sites, onshore or offshore, suitable for small-scale mining, subject to  
 22 review by the Secretary immediately giving priority to areas already  
 23 occupied and actively mined by small-scale miners before August 1,  
 24 1987: *Provided*, That such areas are not considered as active mining  
 25 areas: *Provided, further*, That the minerals found therein are techni-



1 cally and commercially suitable for small-scale mining activities:  
 2 *Provided, finally,* That the areas are not covered by existing forest  
 3 rights or reservations and have not been declared as tourist or marine  
 4 reserves, parks and wildlife reservations, watersheds, or military  
 5 reservations, unless their status as such is withdrawn by competent  
 6 authority.

7 **SEC. 6. Future Small-Scale Mining Areas.** - The following  
 8 lands, when suitable for small-scale mining, may be declared by the  
 9 Board as small-scale mining areas:

- 10 a. public lands not subject to any existing right;
- 11 b. public lands covered by existing mining rights which are  
 12 not active mining areas; and
- 13 c. private lands, subject to certain rights and conditions,  
 14 except those with substantial improvements or in  
 15 bonafide and regular use as a yard, stockyard, gardens,  
 16 plant, nursery, plantation, cemetery or burial sites,  
 17 water reservoir, land situated within 100 meters from such  
 18 cemetery, reservoir, or a separate parcel of land with an  
 19 area of 10,000 square meters or less.



20 **SEC. 7. Ancestral Lands.** - No ancestral land may be declared  
 21 as a small-scale mining area without the prior consent of the cultural  
 22 communities concerned: *Provided,* That if ancestral lands are de-  
 23 clared as small-scale mining areas, the members of the cultural com-  
 24 munities therein shall be given priority in the awarding of small-scale  
 25 mining contracts.

1           **SEC. 8. *Registration of Small-Scale Miners.*** - All persons  
2           undertaking small-scale mining activities shall register as miners  
3           with the Board and may organize themselves into cooperatives,  
4           partnerships, associations or corporations in order to qualify for the  
5           awarding of a small-scale mining contract.

6           **SEC. 9. *Award of Small-Scale Mining Contracts.*** - A small-  
7           scale mining contract may be awarded by the Board to small-scale  
8           miners who have voluntarily organized and have duly registered  
9           with the appropriate government agency as a cooperative,  
10          partnership, association or corporation, the membership of which  
11          shall be one hundred percent (100%) Filipino: *Provided*, That only  
12          one (1) small-scale mining contract may be awarded at any one time  
13          to a small-scale mining contractor who shall start operation of the  
14          mining operation within one year from the date of award: *Provided*,  
15          *further*, That priority shall be given to small-scale miners residing in  
16          the province where the small-scale mining area is located.

17          **SEC. 10. *Extent of Contract Area.*** - The Board shall  
18          determine the reasonable size and shape of the contract area but in  
19          no case shall the area exceed twenty (20) hectares. The length of the  
20          tunnel or adit shall be guided by the following considerations:

- 21               a. number of partners or members of the registered coop-  
22                erative, partnership, association or corporation;  
23               b. size of mineralized area;  
24               c. quantity of mineral deposits;  
25               d. safety of miners;

- 1 e. environmental considerations; and
- 2 f. other related circumstances.

3 **SEC. 11. *Rights Under A Small-Scale Mining Contract.*** - A  
 4 **small-scale mining contract entitles the small-scale mining contrac-**  
 5 **tor the right to mine, extract and dispose of mineral ores for commer-**  
 6 **cial purposes. In no case shall a small-scale mining contract be sub-**  
 7 **contracted, assigned or otherwise transferred.**

8 **SEC. 12. *Easement Rights.*** - Upon the declaration of a small-  
 9 **scale mining area, the Board, in consultation with the operator,**  
 10 **claim owner, landowner, or lessor of the affected area, shall deter-**  
 11 **mine the right of the small-scale miners to existing facilities such as**  
 12 **mining and logging roads, private roads, port and communication**  
 13 **facilities, processing plants which are necessary for the effective**  
 14 **implementation of the Small-Scale Mining Program, subject to pay-**  
 15 **ment of reasonable fees to the operator, claim owner, landowner or**  
 16 **lessor.**

17 **SEC. 13. *Terms and Conditions of a Small-Scale Mining Con-***  
 18 ***tract.*** - A small-scale mining contract shall have a term of two (2)  
 19 **years renewable for like periods subject to verification by the Board**  
 20 **on the existence of available mineral reserves or deposits. The holder**  
 21 **of a small-scale mining contract shall have the following duties**  
 22 **and obligations:**

- 23 (a) Undertake mining activities only in accordance with a
- 24 mining plan duly approved by the Board;
- 25 (b) Comply with the Mines and Geo-Sciences Bureau

1           **Small-Scale Mining Safety Rules and Regulations;**

- 2           (c) Comply with the obligations to the holder/s of existing  
3           rights;
- 4           (d) Pay all taxes, royalties or government production share as  
5           provided in this Act;
- 6           (e) Comply with pertinent environmental rules and regula-  
7           tions on tree-cutting and mineral processing; and
- 8           (f) Submit to the Director through the Board under oath a  
9           monthly production and sales report.

10          **SEC. 14. Rights of Claim Owners.** - In case a site declared and  
11          set aside as a small-scale mining area is covered by an existing  
12          mining right, the claim owner and the small-scale miners therein are  
13          encouraged to enter into a voluntary and acceptable contractual  
14          agreement with respect to the small-scale utilization of the mineral  
15          values from the area under claim. In case of disagreement, the claim  
16          owner shall be entitled to the following rights and privileges:

- 17          (a) exemption from the performance of annual work obliga-  
18          tions and payment of occupation fees, rental, and real  
19          property taxes;
- 20          (b) subject to the approval of the Board, free access to the  
21          permit area to conduct metallurgical tests, explorations  
22          and other activities, provided such activities do not  
23          unduly interfere with the operations of the small-scale  
24          miners;
- 25          (c) royalty equivalent to one and a half percent (1-1/2%) of



1           the gross value of the metallic mineral output or one  
2           percent (1%) of the gross value of the nonmetallic mineral  
3           output to be paid to the claim owner: *Provided*, That such  
4           rights and privileges shall be available only if he is not  
5           delinquent in the performance of his annual work obliga-  
6           tions and other requirements for the last two (2) years  
7           prior to the effectivity of this Act.

8           **SEC. 15. *Rights of Private Land Owners.*** - The private land-  
9           owner or lawful possessor shall be notified of any plan or petition to  
10          declare his land as a small-scale mining area. Said landowner may  
11          oppose such plan or petition in an appropriate proceeding and hear-  
12          ing conducted before the Board.

13          If a private land is declared as a small-scale mining area, the  
14          owner and the small-scale mining contractors are encouraged to  
15          enter into a voluntary and acceptable contractual agreement for the  
16          small-scale utilization of the mineral values from the private land;  
17          *Provided*, That the owner shall, in all cases be entitled to the payment  
18          of actual damages which he may suffer as a result of such  
19          declaration: *Provided, further*, That royalties paid to the owner shall,  
20          in no case, exceed one percent (1%) of the gross value of the minerals  
21          recovered as royalty.

22          **SEC. 16. *Ownership of Mill Tailings.*** - The small-scale mining  
23          contractor shall be the owner of all mill tailings produced from the  
24          contract area. He may sell the tailings or have them processed in any  
25          custom mill in the area: *Provided*, That if the small-scale mining

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1 contractor decides to sell its milltailings, the claim owner shall have  
2 a preemptive right to purchase said mill tailings at the prevailing  
3 market price.

4 **SEC. 17. Sale of Gold.** - All gold produced by small-scale  
5 miners in any mineral area shall be sold only to the Central Bank or  
6 its duly authorized representatives at prices competitive with those  
7 prevailing in the world market.

8 The Central Bank shall establish as many buying stations in  
9 gold rush areas to fully service the requirements of the small-scale  
10 miners thereat.

11 **SEC. 18. Custom Mills/Service Processing Plants.** - The  
12 establishment and operation of safe and efficient custom mills to  
13 process minerals or ore-bearing materials shall be encouraged in  
14 Mineral Processing Zones duly designated by the local government  
15 unit concerned upon the recommendation of the Board. In mining  
16 areas where the private sector is unable to establish custom mills the  
17 Government shall construct such custom mills upon the recommen-  
18 dation of the Board based on the viability of the project.

19 The Board shall issue licenses for the operation of custom mills  
20 and other processing plants subject to pollution control and safety  
21 standards.

22 The Board shall ban the use of mercury or any other noxious  
23 substance in mining areas where custom mills are established.

24 The use of mercury and other noxious substances may be al-  
25 lowed only where there are no safe and efficient custom mills

1 operating within the area and only under the strict supervision of the  
2 Department and other appropriate government agencies. Such  
3 agencies shall see to it that settling ponds and other measures to  
4 reduce pollution of the environment shall be established.

5 The Department shall establish assay laboratories to cross  
6 check the integrity of custom mills and to render metallurgical and  
7 laboratory services to miners.

8 Custom mills shall be constituted as withholding agents for  
9 the royalties, production share or other taxes due to the Government.

10 **SEC. 19. *Government Share and Allotment.*** - The small-scale  
11 contractor shall pay the government's share equivalent to five  
12 percentum (5%) and three percentum (3%) of the gross value of  
13 metallic and non-metallic mineral output, respectively, to be de-  
14 ducted from the proceeds of the sale in accordance with existing laws.  
15 The Government's share shall be withheld by licensed custom mills  
16 and remitted monthly to the provincial or city treasurer, and shall be  
17 in lieu of all other taxes and royalties imposed under other laws.

18 The revenue to be derived by the Government from the opera-  
19 tions of the Small-Scale Mining Program herein established shall  
20 be allotted as follows:

21 30% - National Treasury

22 15% - Province where minerals were mined

23 15% - City or Municipality where minerals were mined

24 10% - Barangay where minerals were mined

25 10% - Small-Scale Miners Protection Fund

1           20% - Special Fund to be administered by the Department  
2 for reforestation and environmental rehabilitation of Small-Scale  
3 Mining Areas.

4           **SEC. 20. *Small-Scale Mining Protection Fund.*** - The Small-  
5 Scale Mining Protection Fund to be administered by the Board shall be  
6 used primarily for information dissemination and training of small-  
7 scale miners on safety, health and environmental protection, and the  
8 establishment of mine rescue and recovery teams including the  
9 procurement of rescue equipment necessary in cases of emergencies  
10 such as landslides, tunnel collapse or the like.

11           The fund shall also be made available to address the needs of the  
12 small-scale miners brought about by accidents and/or fortuitous  
13 events.

14           **SEC. 21. *Rescission of Small-Scale Mining Contract and Ad-***  
15 ***ministrative Fines.*** - The non-compliance by the small-scale mining  
16 contractor with the terms and conditions of a small-scale mining  
17 contract, violation of any of the rules and regulations issued by the  
18 Board pursuant to this Act, or abandonment of the contract area, shall  
19 be a ground for the rescission of the small-scale mining contract. In  
20 addition, the Board shall impose fines against the violator in an  
21 amount of not less than Five thousand pesos (P5,000.00) and not more  
22 than One hundred thousand pesos (P100,000.00). Non-payment of  
23 the fine imposed shall render the small-scale mining contractor  
24 ineligible for other small-scale mining contracts.

25           **SEC. 22. *Reversion of Small-Scale Mining Areas.***- When a

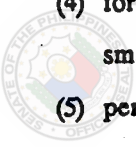
1 small-scale mining area can no longer be feasibly operated on a  
2 small-scale basis and there are no more small-scale miners in the  
3 area, the same shall revert to the State for proper disposition.

4 **SEC. 23. Actual Occupation by Small-Scale Miners.** -Small-  
5 scale miners who have been in actual operation of mineral lands on  
6 or before August 1, 1987 as determined by the Board, shall not be  
7 dispossessed, ejected or removed from said areas.

8 **SEC. 24. Provincial/City Mining Regulatory Board.** - The  
9 Board shall be the implementing agency of the Department. It  
10 shall exercise the following powers and functions, subject to review  
11 by the Secretary:

- 12 (1) declare and segregate existing gold-rush areas for small-  
13 scale mining;
- 14 (2) reserve future gold and other mining areas for small-scale  
15 mining;
- 16 (3) award contracts to small-scale miners;
- 17 (4) formulate and implement rules and regulations related to  
18 small-scale mining; and
- 19 (5) perform such other functions as may be necessary to  
20 achieve the goals and objectives of this Act.

21 **SEC. 25. Composition of the Provincial/City Mining Regula-**  
22 **tory Board.** - The Board shall be composed of the Department  
23 representative as Chairman; the representative of the Governor or City  
24 Mayor, as the case may be; two (2) small-scale mining representa-  
25 tives; and the representative from nongovernmental organizations



1 who shall preferably come from an environmental group, as  
2 members. The representatives from the private sector shall be nomi-  
3 nated by their respective organizations and appointed by the  
4 Department Regional Director. The Department shall provide the  
5 staff support to the Board.

6 **SEC. 26. *Small-Scale Mining Coordinating Committee.*** - To  
7 ensure maximum development of small-scale mining areas and the  
8 extension of all basic services geared towards the socioeconomic  
9 upliftment of the miners thereat, including matters relating to health,  
10 sanitation, and peace and order conditions, concerned government  
11 agencies shall form a National Small-Scale Mining Coordinating  
12 Committee which shall be composed of the following or their duly  
13 authorized representatives:

- 14 a. Secretary of Environment and Natural Resources- as  
15 Chairman;
- 16 b. Secretary of National Defense;
- 17 c. Governor of the Central Bank of the Philippines;
- 18 d. Secretary of Health;
- 19 e. Secretary of Finance;
- 20 f. Three National Representatives of the Small-Scale Min-  
21 ers one each from Luzon, Visayas and Mindanao; and
- 22 g. President of Chamber of Mines of the Philippines - as  
23 Members.

24 For a more effective implementation of this Act, a Regional  
25 Small-Scale Mining Coordinating Committee shall be created in all

1 regions of the country where small-scale mining areas are identified  
 2 and established, which shall be composed of the regional heads of  
 3 the agencies and associations represented in the National Small-  
 4 Scale Mining Coordinating Committee, and chaired by the Director  
 5 and the Chairman of the Regional Development Council.

6 **SEC. 27. Administrative Supervision over the Small-Scale**  
 7 **Mining Program.** - The Department Regional Director through his  
 8 representative in the Board shall exercise direct supervision and  
 9 control over the Small-Scale Mining Program.

10 **SEC. 28. Implementing Rules and Regulations.** - The Depart-  
 11 ment Regional Director through the Board shall, within ninety  
 12 (90) days from the effectivity of this Act, promulgate rules and  
 13 regulations to effectively implement the provisions thereof. Priority  
 14 shall be given to such rules and regulations that will ensure the least  
 15 disruption in the operations of the small-scale miners.

16 **SEC. 29. Penal Sanctions.** - Violation of any of the provisions of  
 17 this Act, or any of the rules and regulations issued pursuant thereto  
 18 shall be penalized with imprisonment for a minimum period of six (6)  
 19 months but not to exceed six (6) years.

20 **SEC. 30. Repealing Clause.** - All laws, decrees, letters of  
 21 instructions, executive orders, rules and regulations, and issuances or  
 22 parts thereof, in conflict or inconsistent with the provisions of this Act  
 23 are hereby repealed or modified accordingly.

24 **SEC. 31. Separability Clause.** - Any section or provision of  
 25 this Act which may be declared unconstitutional shall not affect other

1 sections or provisions.

2           **SEC. 32. Effectivity.** - This Act shall take effect fifteen (15) days  
3 after its publication in the *Official Gazette* or in a national newspa-  
4 per of general circulation.

Approved,

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