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First Regular Session )



'22 JUL 25 P2:18

**SENATE**  
**S. No. 869**

RECEIVED BY: 

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Introduced by Senator Grace Poe

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**AN ACT**  
**ESTABLISHING A NATIONAL FRAMEWORK FOR THE MANDATORY**  
**ENVIRONMENTAL INSURANCE COVERAGE OF ENVIRONMENTALLY-**  
**CRITICAL PROJECTS**

EXPLANATORY NOTE

Article II, Section 8 of the 1987 Philippine Constitution mandates 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."* In the landmark environmental case of *Oposa vs Factoran* (G.R. No. 101083), the Supreme Court ruled that *"the right to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment."*

The *"duty to refrain from impairing the environment"* is spelled out in several laws such as the Revised Forestry Reform Code (P.D. No. 705); the Water Code of the Philippines (P.D. No. 1067); the Philippine Mining Act of 1995 (R.A. 7942); the Philippine Fisheries Code of 1998 (R.A. 8550); the Philippine Clean Air Act of 1999 (R.A. 8749); the Ecological Solid Waste Management Act of 2000 (R.A. 9003); the Wildlife Resources Conservation and Protection Act (R.A. 9147); the Philippine Clear Water Act of 2004 (R.A. 9275); and Environmental Awareness and Education Act of 2009 (R.A. 9512), among other environmental laws.

In 2010, the Supreme Court issues the 'Writ of Kalikasan', a landmark legal remedy which mandated the State to "protect and advance the right of the people to a balanced and healthful ecology". The writ can be invoked in cases when the

aforementioned right is violated by “environmental damage of such magnitude as to prejudice the life, health or property of inhabitants.”

However, there remain lapses in the protection of the people’s right to a healthy and balanced ecology. In particular, environmental degradation and man-made disasters which arise from economic activities are extremely underregulated. There have been many instances of man-made environmental damages like the 1996 Marcopper Mining tragedy in Marinduque which led to the biological death of the Boac and Makalupnit rivers, and destroyed hectares of farmlands and displaced families. The 2005 and 2007 massive fish kills in Rapu-Rapu, Albay caused by cyanide spills from the mining operations of Lafayettes, Philippine, Inc. also caused severe damage to the community. More detailed cases are listed below:

- In 2012, 20 million metric tons of sediments flowed into water channels from the Philex tailings pond in Itogon, spilling tons of sediments into the Agno River and Balog Creek. An investigation by the Samahan ng Nagtataguyod ng Agham at Teknolohiya Para sa Sambayanan (AGHAM) reported that Balog Creek is now “biologically dead”. The livelihoods of residents near the spill were also severely affected.
- In August 2013, a mishap between 2GO Group Incorporated and Philippine Span Asia Carrier Corporation ships claimed twenty-four (24) lives and imperilled the Cordova marine environment in Talisay, Cebu. One of the sunken ships was loaded with 120,000 liters of bunker oil, 20,000 liters of lube oil, and 20,000 liters of Diesel. Days after the collision, oils from wrecked and sunken ships had reached 12 villages of Cordova town. The marine ecosystem of the affected areas was affected causing the residents to lose their livelihoods.
- According to a study by Greenpeace, the Chemphil Manufacturing Corporation has contributed to the wastewater in Pasig River. Sediments found in their channels that drain into the river were found to have high-levels of copper, manganese, lead, nickel, and zinc.

- In 2018, at the height of the rehabilitation efforts in Boracay Island, around 200 establishments were fined and temporarily suspended operations for violating various environmental laws.

Environmental degradation due to economic activities is a form of "negative externality" or the unintended and indirect negative effects of economic activities on other producers and consumers. It is characterized as a social cost that is greater than the cost borne by private producers. Without prudent government regulation, producers of negative externalities will have no incentive to either absorb or account for the social costs which they impose upon the Filipino people. This is particularly important given the steady economic growth due to commercial and industrial development.

As a remedy, this bill proposes a Mandatory Environmental Insurance Coverage (MEIC) as a measure to somehow compensate the people and rehabilitate the environment from the environmental damages caused by certain economic activities. It requires MEIC for owners and operators of environmentally-critical projects. The said insurance will be used to compensate for damages and to rehabilitate any environmental impairment caused by their operation. The MEIC is designed to relieve a business firm of the financial burden to spend for environmental loss or damage as a consequence of its project's construction or operation. It will answer for all claims for the payment of damages to health and property; and the environmental rehabilitation, remediation and clean-up costs and expenses.


Although the government recognizes the indispensable role of the private sector and encourages private enterprise and provides incentives to needed investments, it also protects and advances the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. This bill is essential, therefore, to protect the business sector, the people and the environment.

In view of the foregoing, the approval of this bill is urgently sought.

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

1 Section 1. *Short Title.* – This Act shall be known as the “Mandatory  
2 Environmental Insurance Coverage Act”.

3 Sec. 2. *Definition of Terms.* – As used in this Act:

- 4 a) *Environmentally Critical Project* refers to a project that has high potential for  
5 significant negative environmental impact and is listed as such under  
6 Presidential Proclamation (P.P.) No. 2146, series of 1981, and P.P. No. 803,  
7 series of 1996, as well as other projects which the President may proclaim as  
8 environmentally critical in accordance with Section 4 of Presidential Decree  
9 No. 1586 or the Philippine Environmental Impact Statement System. This shall  
10 include heavy industries, major manufacturing industries, major resource-  
11 extractive industries, major infrastructure projects, and other similar projects  
12 that could pose serious risks to people and the environment;
- 13 b) *Heavy industries* refer to non-ferrous metal industries, iron and steel mills,  
14 petroleum, and petrochemical industries, including oil and gas smelting  
15 plants;
- 16 c) *Infrastructure projects* refer to major dams, major power plants, major  
17 reclamation projects, and major roads and bridges; and

1 d) *Resource Extractive Industries* refer to major mining and quarrying projects;  
2 forestry projects involving logging, major wood processing projects,  
3 introduction of fauna or exotic animals in public or private forests, forest  
4 occupancy, extraction of mangrove products, and grazing; and fishery  
5 projects, specifically fishpond development projects and dikes for such  
6 projects.

7 *Sec. 3. Establishment of a National Framework for Mandatory Environmental*  
8 *Insurance Coverage.* – Within one (1) year following the effectivity of this Act, a  
9 national framework for Mandatory Environmental Insurance Coverage (MEIC) shall  
10 be established. The framework shall consider the following:

11 (a) Coverage. – All owners and operators of environmentally-critical projects  
12 (ECPs) shall be required to secure MEIC as prescribed under this Section, to  
13 compensate for adverse environmental consequences which include damages to  
14 health and property, and costs for environmental rehabilitation, remediation, clean-  
15 up and other environmental impairments arising from their operations.

16 (b) Forms of MEIC. – The MEIC shall be in the following forms:

- 17 1) Environmental guarantee cash fund established pursuant to existing  
18 environmental laws; or
- 19 2) Environmental insurance policy (EIP) obtained from bonding or  
20 insurance companies, whenever the environmental guarantee cash  
21 fund is insufficient to cover for said adverse environmental  
22 consequences, upon determination and recommendation of the Inter-  
23 Agency Technical Committee created pursuant to Section 5 of this Act.

24 The EIP may take the form of the following:

- 25 1) Environmental Performance Bond (EPB) which shall be required for all  
26 ongoing activities or projects issued with Environmental Compliance  
27 Certificate (ECC) pursuant to Presidential Decree No. 1586, to  
28 guarantee adequate and timely compliance with the environmental  
29 standards and the terms and conditions set forth by the Department of  
30 Environment and Natural Resources (DENR) during the pre-  
31 development, development and construction phases of the project.

1 The EPB shall answer for all environmental damages, penalties and  
2 legal obligations which may arise from the failure of the project  
3 proponent to comply with its undertakings during the aforementioned  
4 phases; and

- 5 2) Environmental Pollution, Impairment and Clean-Up Liability Insurance  
6 (EPICLI) which shall be required for all existing and future activities or  
7 projects issued with ECC pursuant to Presidential Decree No. 1586 to  
8 cover operational phases. The EPICLI shall answer for all claims arising  
9 from damages to the environment; bodily injury, and property damage  
10 arising from a pollution event; and for the cost of environmental  
11 rehabilitation, clean-up or remediation responses to address the  
12 contamination or impairment of the environment.

13 Sec. 4. *Pre-requisite to the Construction or Operational Phase.* – Owners and  
14 operators of ECPs shall not be allowed to commence construction or commercial  
15 operation without obtaining the MEIC required under Section 3 of this Act.

16 Sec. 5. *Creation of an Inter-Agency Technical Committee.* - Within one (1)  
17 year following the effectivity of this Act, the Secretary of the DENR shall establish  
18 and chair an Inter-Agency Committee (IATC) with the Commissioner of the  
19 Insurance Commission and representatives of the insurance industry, the mining  
20 industry, and other stakeholders that the DENR may deem fit, as members. Within  
21 the same period, the IATC shall:

- 22 a) Identify the perils or possible negative environmental impacts,  
23 activities, processes or undertakings that need to be mandatorily  
24 insured as provided in Section 3 hereof;
- 25 b) Conduct risk assessment to determine the appropriate insurance  
26 coverage for different ECPs and activities;
- 27 c) Formulate guidelines for the identification of primary impact areas, and  
28 prescription of rehabilitation or remediation measures in cases of  
29 environmental damages;
- 30 d) Formulate cleanup guidelines;
- 31 e) Formulate guidelines for the identification of beneficiaries of the MEIC;

- 1 f) Ensure that the premium rates of the EIP are commensurate to the
- 2 risks covered;
- 3 g) Formulate guidelines for the determination of veracity of claims;
- 4 h) Formulate guidelines for the establishment of insurance facilities; and
- 5 i) Undertake such activities as may be necessary to fulfill the objectives
- 6 of this Act.

7 For purposes of paragraph (h) of this section, the Insurance Commission, in  
8 coordination with the DENR, shall formulate guidelines for the establishment of  
9 insurance facilities, within one (1) year following the effectivity of this Act.

10 *Sec. 6. Environmental Risk Inspector.* – During the insurance coverage  
11 period, an environmental risk inspector from the DENR shall conduct quarterly, bi-  
12 annual or annual visits to the firm’s project to evaluate and recommend measures to  
13 prevent adverse environmental consequences.

14 *Sec. 7. Beneficiaries.* – The beneficiaries of the MEIC include affected  
15 communities, stakeholders and local government units within the projects’ primary  
16 impact areas. Beneficiaries also include government departments, bureaus and  
17 agencies which are tasked under law to undertake the rehabilitation, clean-up and  
18 monitoring of sites affected by the pollution or insurable event, for which no  
19 responsible private or public entity is specified.

20 The beneficiaries shall be represented by the government, particularly the  
21 DENR. The IATC shall identify the affected areas and prescribe rehabilitation or  
22 remediation measures pursuant to Section 5 of this Act.

23 *Sec. 8. Payment of Claims.* – The insurance company shall place all payments  
24 of claims into special escrow accounts in government depository banks which shall,  
25 in turn, disburse corresponding payments to beneficiaries, only upon the advice of  
26 the DENR and with proper documentation.

27 The DENR may create an ad-hoc body composed of representatives from the  
28 business, labor, government, civil society groups, and other stakeholders to assure  
29 that claims are verified and rightful parties are compensated, and the environment is  
30 properly rehabilitated, cleaned-up, remediated, stabilized and protected.



1           Sec. 12. *Repealing Clause.* – All laws, decrees, orders, rules and regulations,  
2 and other issuances inconsistent with the provisions of this Act are repealed,  
3 amended or modified accordingly.

4           Sec. 13. *Effectivity.* – This Act shall take effect fifteen (15) days after its  
5 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,