

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'22 NOV 29 A10 :44

SENATE

S. No. 1562

RECEIVED BY: _____

Introduced by SENATOR RAMON BONG REVILLA, JR.

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

EXPLANATORY NOTE

As we pursue socio-economic development through implementation of numerous big-ticket projects catering to the demands of more efficient mobility, sufficient power and sustainable production, among others, environmental risks and impact must always be carefully evaluated and addressed. It is for this purpose that the Department of Environment and Natural Resources (DENR) is conducting a thorough review and assessment of environmentally critical projects to ensure that they will not cause significant negative impact on the environment, and that the project proponent will be committed to do no harm to its surroundings during and even after its operations.

However, strict compliance to such standards does not always happen which result in degradation, pollution and impairment of our natural resources, to the detriment of the host communities, the entire country, and the future generations. As stated in the DENR Administrative Order No. 2005-06, "[I]t has been observed that existing mechanisms devised to ensure a project proponent's environmental accountability fall short of providing an administrative regime that guarantees full environmental responsibility, which translates to adequate and timely environmental rehabilitation, clean-up, remediation and protection for the affected communities, areas and stakeholders."

This bill institutionalizes the Mandatory Environmental Insurance Coverage (MEIC) required for all owners and operators of environmentally critical projects, as earlier introduced in the said Department Order in April 2005. The insurance will be used to compensate for the adverse environmental consequences, which include damage to health and property, and costs for environmental rehabilitation, remediation, cleanup, and other environmental impairments arising from their operations. The insurance may take the form of an environmental guarantee cash fund, or an environmental insurance policy which can be a performance bond or a pollution, impairment and cleanup liability insurance. Such will be required before the commencement of the construction or commercial operation.

With the hope of further strengthening our legal framework in safeguarding the health and balance of our ecosystems, ensuring immediate and effective rehabilitation of environmental damage and protecting our natural resources for the future generations, the passage of this bill is recommended.



RAMON BONG REVILLA, JR.

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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 “*Mandatory Environmental*
2 *Insurance Coverage Act*”.

3 Sec. 2. *Declaration of Policy.* – It is State policy to protect and advance the
4 right of the people to a balanced and healthful ecology in accord with the rhythm and
5 harmony of nature. It is hereby declared the policy of the State to promote
6 environmental conservation and its sustainable development at all times, and to
7 implement, under a system of compensation and compliance mechanisms, proper,
8 effective and immediate environmental rehabilitation, remediation, and protection
9 against pollution and degradation arising from violations of environmental laws and
10 regulations.

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

12 a. *Environmentally Critical Project* refers to a project that has high potential for
13 significant negative environmental impact and is listed as such under
14 Presidential Proclamation (P.P.) No. 2146, series of 1981, and P.P. No. 803,
15 series of 1996, as well as other projects, which the President may proclaim as

1 environmentally critical, in accordance with Section 4 of Presidential Decree No.
2 1586, or the "*Philippine Environmental Impact Statement System*";

3 b. *Heavy industries* refer to non-ferrous metal industries, iron and steel mills,
4 petroleum, and petrochemical industries, including oil and gas smelting plants;

5 c. *Infrastructure projects* refer to major dams, major power plants, major
6 reclamation projects, and major roads and bridges; and

7 d. *Resource Extractive Industries* refer to major mining and quarrying projects;
8 forestry projects involving logging, major wood processing projects,
9 introduction of fauna or exotic animals in public or private forests, forest
10 occupancy, extraction of mangrove products, and grazing; and fishery projects,
11 specifically fishpond development projects and dikes for such projects.

12 *Sec. 4. Establishment of a National Framework for Mandatory Environmental*
13 *Insurance Coverage.* – Within one (1) year following the effectivity of this Act, a
14 national framework for Mandatory Environmental Insurance Coverage (MEIC) shall be
15 established. The framework shall consider the following:

16 a. *Coverage.* – All owners and operators of environmentally critical projects (ECPs)
17 shall be required to secure MEIC for ECPs as prescribed under this Section, to
18 compensate for the adverse environmental consequences which include
19 damage to health and property, and costs for environmental rehabilitation,
20 remediation, cleanup, and other environmental impairments arising from their
21 operations. For purposes of this Act, ECPs shall include heavy industries, major
22 manufacturing industries, major resource-extractive industries, major
23 infrastructure projects, and other similar projects that could pose serious risks
24 to people and the environment.

25 b. *Forms of MEIC.* – The MEIC shall be in the form of:

26 i. Environmental guarantee cash fund established pursuant to existing
27 environmental laws; or

28 ii. Environmental insurance policy (EIP) obtained from bonding or
29 insurance companies, whenever the environmental guarantee cash fund
30 is insufficient to cover the said adverse environmental consequences,
31 upon determination and recommendation of the Inter-Agency Technical
32 Committee created, pursuant to Section 6 of this Act.

1 The EIP may take the form of the following:

- 2 a. Environment performance bond (EPB) – which shall be required
3 for all ongoing activities or projects issued with Environmental
4 Compliance Certificate (ECC) pursuant to Presidential Decree No.
5 1586, to guarantee adequate and timely compliance with the
6 environmental standards and the terms and conditions set forth
7 by the Department of Environment and Natural Resources
8 (DENR) during the pre-development, development, and
9 construction phases of the project. The EPB shall answer for all
10 environmental damages, penalties, and legal obligations, which
11 may arise from the failure of the project proponent to comply with
12 its undertakings during the aforementioned phases; and
- 13 b. Environment pollution, impairment and cleanup liability insurance
14 (EPICLI) – which shall be required for all existing and future
15 activities or projects issued with ECC pursuant to Presidential
16 Decree No. 1586, to cover the operational phases. The EPICLI
17 shall answer for all claims arising from damages to the
18 environment; bodily injury and property damages to the
19 environment; bodily injury and property damage arising from a
20 pollution event; and for the cost of environmental rehabilitation,
21 cleanup, or remediation to address the contamination or
22 impairment of the environment.

23 *Sec. 5. Prerequisite to the Construction or Operational Phase.* – Owners and
24 operators of ECPs shall not be allowed to commence construction or commercial
25 operation without initially obtaining the MEIC required under Section 4 of this Act.

26 *Sec. 6. Creation of an Inter-Agency Technical Committee.* – Within one (1) year
27 following the effectivity of this Act, the Secretary of the DENR shall establish and chair
28 an Inter-Agency Technical Committee (IATC), with the Commissioner of the Insurance
29 Commission and representatives of the insurance industry, the Secretary of the
30 Department of Public Works and Highways (DPWH), Secretary of the Department of
31 the Interior and Local Government (DILG), the Chairperson of the National
32 Commission on Indigenous Peoples (NCIP), and other industry stakeholders, such as

1 mining, power generation, construction, forest-based industries among others, that
2 the DENR may deem fit, as members. Within the same period, the IATC shall:

- 3 a. Identify the perils or possible negative environmental impacts, activities,
4 processes or undertakings that need to be mandatorily insured as provided in
5 Section 4 hereof;
- 6 b. Conduct risk assessment to determine the appropriate insurance coverage for
7 different ECPs and activities;
- 8 c. Formulate guidelines for the identification of primary impact areas and
9 prescription of rehabilitation or remediation measures in cases of environmental
10 damages;
- 11 d. Formulate cleanup guidelines;
- 12 e. Formulate guidelines for the identification of beneficiaries of the MEIC;
- 13 f. Ensure that the premium rates of the EIP are commensurate to the risks
14 covered;
- 15 g. Formulate guidelines for the determination of veracity of claims;
- 16 h. Formulate guidelines for the establishment of insurance facilities; and
- 17 i. Undertake such activities as may be necessary to fulfil the objectives of this
18 Act.

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

22 *Sec. 7. Beneficiaries.* – The beneficiaries of the MEIC include affected
23 communities, stakeholders, and local government units within the project’s primary
24 impact areas. Also included as beneficiaries are government departments, bureaus,
25 and agencies which are tasked under the law to undertake the rehabilitation, cleanup,
26 and monitoring of sites affected by the pollution or insurable event, for which no
27 responsible private or public entity is specified.

28 The beneficiaries shall be represented by the government, particularly the
29 DENR. The IATC shall identify the affected areas and prescribe rehabilitation or
30 remediation measures pursuant to Section 6 of this Act.

31 *Sec. 8. Payment of Claims.* – The insurance company shall place all payments
32 of claims into special escrow accounts in government depository banks, which shall in

1 turn disburse the corresponding payment to beneficiaries, upon advice of the DENR
2 and with proper documentation.

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

7 The DENR shall not receive and handle payment of claims for environmental
8 damages, penalties and charges, except for the claims component which properly
9 accrues to it as an insurance beneficiary.

10 The government agency tasked with rehabilitation and assigned as the
11 beneficiary of the MEIC, as provided under Section 7 of this Act, shall undertake the
12 same utilizing funds coming from the insurance claim upon approval of the DENR.

13 *Sec. 9. Penalties.* – The failure of the owner and operator of an ECP to secure
14 an MEIC as prescribed under Section 4 hereof, or of the insurance company, to pay a
15 verified claim in violation of the provisions of this Act, and within reasonable time,
16 shall be punished with a fine of Five hundred thousand pesos (P500,000.00) but not
17 more than Two million pesos (P2,000,000.00) or imprisonment of not less than six (6)
18 years but not more than twelve (12) years, or both, at the discretion of the court.

19 In the case of a partnership, association, corporation, or any juridical entity,
20 the fine shall be imposed upon the president, treasurer, or any other officer or person
21 responsible for the violation.

22 If the offender is a foreigner, the offender shall, after the service of sentence,
23 be deported immediately without further proceedings by the Bureau of Immigration.

24 Government officials, employees and agents who approve the construction or
25 operation of environmentally critical projects without the necessary MEIC, in violation
26 of the provisions of this Act, shall suffer the penalty of suspension of not less than
27 thirty (30) days but not more than six (6) months after due notice and hearing in the
28 appropriate administrative proceedings.

29 *Sec. 10. Implementing Rules and Regulations (IRR).* – Within sixty (60) days
30 from the approval of this Act, the DENR shall, in coordination with the Insurance
31 Commission, promulgate the necessary rules and regulations for the effective
32 implementation of this Act: *Provided,* That the non-promulgation of the rules and

1 regulations provided under this section shall not prevent the immediate
2 implementation of this Act upon effectivity.

3 *Sec. 11. Separability Clause.* – If any provision or part hereof is held invalid or
4 unconstitutional, the remainder of the law or the provision or part not otherwise
5 affected shall remain in full force and effect.

6 *Sec. 12. Repealing Clause.* – Any law, presidential decree or issuance, executive
7 order, letter of instruction, administrative order, rule, or regulation contrary to, or
8 inconsistent with, the provisions of this Act are hereby repealed, modified, or amended
9 accordingly.

10 *Sec. 13. Effectivity.* – This Act shall take effect fifteen (15) days after its
11 publication either in the *Official Gazette* or in two (2) newspapers of general circulation
12 in the Philippines.

Approved,