

Introduced by: Sen. Ralph G. Recto

A RESOLUTION

DIRECTING THE COMMITTEES ON ECONOMIC AFFAIRS AND ON ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, INTO THE REPORTED ABUSIVE PRACTICES IN THE GRANT AND USE OF DIFFERENT KINDS OF MINING PERMITS UNDER REPUBLIC ACT NO. 7942 OR THE PHILIPPINE MINING ACT OF 1995 WITH THE END VIEW OF PREVENTING SUCH ABUSIVE PRACTICES

WHEREAS, Section 2, Article XII of the Constitution states that: "All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State";

WHEREAS, the same section of the Constitution also mandates that the exploration, development, and utilization of natural resources shall be under the full control and supervision of the State and that it may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens;

WHEREAS, the provision continues to state that: "Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law";

WHEREAS, it also states that: "The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country" and that the President shall notify Congress of every contract entered into in accordance with this provision, within thirty days from its execution;

WHEREAS, with these provisions in mind, Congress enacted Republic Act No. 7942 or the Philippine Mining Act of 1995;

WHEREAS, under this law, there are three major kinds of mining rights, to wit: the Exploration Permit (EP), the Mineral Agreement and the Financial or Technical Assistance Agreement (FTAA);

WHEREAS, available data from the Mines and Geosciences Bureau under the Department of Environment and Natural Resources indicate that there are 367 major mining permits comprising four (4) FTAA's, a total of 312 Mineral Production Sharing Agreements (MPSA) and 51 Exploration Permits (EP) as of December 31, 2009;

WHEREAS, although Republic Act 7942 has provided for safeguards to prevent abuses in the grant and use of these mining permits, such is not allegedly the case in actual industry practices;

WHEREAS, the application and grant of permits, especially in mineral agreements, has

reportedly fast becoming a downstream money-making venture for small and medium mining companies;

WHEREAS, there are reports that there is a rush among these unscrupulous firms to identify and apply for mining permits all throughout the country with the ultimate purpose of selling it to bigger and more capable mining companies;

WHEREAS, there are reports that in actual practice, the person or firm who applies for a permit within a specified area first, barring any exclusion under the law, is usually granted the mining contract or agreement;

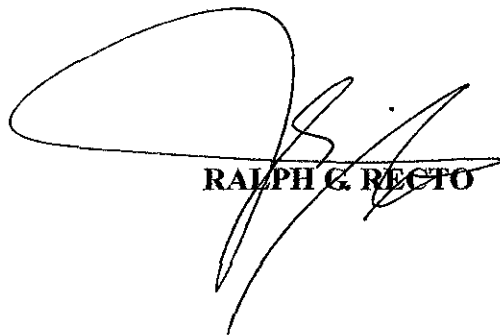
WHEREAS, reports also indicate that if the area applied for turns out to have mineral deposits, the unscrupulous mining firm sells the right, the sale of which could take many forms aside from the transfer or assignment provision of mining rights under Republic Act No. 7942;

WHEREAS, these kinds of abusive practices in the mining industry defiles the real intent of the Philippine Mining Act of 1995, which is to promote the rational exploration, development, utilization and conservation of the country's natural resources through the combined efforts of government and the private sector in order to enhance national growth;

WHEREAS, Congress needs to correct perceived loopholes in the law and prevent such abusive practices from taking place;

Now Therefore, Be It Resolved, by the Philippine Senate, to direct the Committees on Economic Affairs and on Environment and Natural Resources to conduct an investigation, in aid of legislation, into the reported abusive practices in the grant and use of different kinds of mining permits under Republic Act No. 7942 or the Philippine Mining Act of 1995 with the end view of amending the law to prevent such abusive practices.

Adopted,



RALPH G. RECTO