

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

22 AUG 16 P2:40

SENATE

RECEIVED BY: 

S. No. 1189

Introduced by Senator Christopher Lawrence "Bong" T. Go

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

EXPLANATORY NOTE

Article II, Section 16 of the 1987 Philippines Constitution declares that "the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature." Indeed, it is the duty of the State to uphold the quality of life of its people through the protection of the environment they live in.

Despite existing measures and laws that protect the environment, there have been various instances of man-made environmental damages in the country.

Over the years, the responsibility of man to take care of its only home seems to be overlooked, especially in the wake of the blinding pace of modern industrialization. This has led to almost recurring and irreparable damage to the environment, seriously jeopardizing future generations.

This bill seeks to establish a National Framework for Mandatory Environmental Insurance Coverage which shall guarantee sufficient funding coverage for the needed restoration and compensation for damages on the environment caused by owners and

operators of environmentally-critical projects which activities have the potential to harm the environment and everything that depends on it.

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

A handwritten signature in black ink, appearing to be 'Bong T. Go', written over a diagonal line that extends from the top right towards the bottom left.

SENATOR CHRISTOPHER LAWRENCE "BONG" T. GO

NINETEENTH CONGRESS OF THE)
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*Be it enacted by the Senate and the 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 of 2022."

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

4 a) *Environmentally Critical Project* refers to a project that has high potential
5 for 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
8 as environmentally critical in accordance with Section 4 of P.D. 1586 or the
9 Philippine Environmental Impact Statement System;

10 b) *Heavy industries* refer to non-ferrous metal industries, iron and steel mills,
11 petroleum, and petrochemical industries, including oil and gas smelting
12 plants;

13 c) *Infrastructure projects* refer to major dams, major power plants, major
14 reclamation projects, and major roads and bridges; and,

1 d) *Resource Extractive Industries* refer to major mining and quarrying
2 projects; forestry projects involving logging, major wood processing
3 projects, introduction of fauna or exotic animals in public or private
4 forests, forest occupancy, extraction of mangrove products, and grazing;
5 and fishery projects, specifically fishpond development projects and dikes
6 for such 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 national
9 framework for Mandatory Environmental Insurance Coverage (MEIC) shall be established.
10 The framework shall consider the following:

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

20 b) *Forms of MEIC.* - The MEIC shall be in the form of:

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

28 The EIP may take the form of the following:

- 1 i. Environment performance bond (EPB) - which shall be required for all
2 ongoing activities or projects issued with Environmental Compliance
3 Certificate (ECC) pursuant to P.D. 1586, to guarantee adequate and
4 timely compliance with the environmental standards and the terms
5 and conditions set forth by the Department of Environment and
6 Natural Resources (DENR) during the pre-development,
7 development, and construction phases of the project. The EPB shall
8 answer for all environmental damages, penalties, and legal
9 obligations, which may arise from the failure of the project proponent
10 to comply with its undertakings during the aforementioned phases;
11 and

- 12 ii. Environment pollution, impairment, and cleanup liability insurance
13 (EPICLI) - which shall be required for all existing and future activities
14 or projects issued with ECC pursuant to P.D. 1586, to cover the
15 operational phases. The EPICLI shall answer for all claims arising
16 from damages to the environment; bodily injury and property
17 damage arising from a pollution event; and for the cost of
18 environmental rehabilitation, cleanup, or remediation responses to
19 address the contamination or impairment of the environment.

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

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

- 29 a) Identify the perils or possible negative environmental impacts, activities,
30 processes or undertakings that need to be mandatorily insured as provided in

- 1 Section 3 hereof;
- 2 b) Conduct risk assessment to determine the appropriate insurance coverage for
3 different ECPs and activities;
- 4 c) Formulate guidelines for the identification of primary impact areas and
5 prescription of rehabilitation or remediation measures in cases of
6 environmental damages;
- 7 d) Formulate cleanup guidelines;
- 8 e) Formulate guidelines for the identification of beneficiaries of the MEIC;
- 9 f) Ensure that the premium rates of the EIP are commensurate to the risks
10 covered;
- 11 g) Formulate guidelines for the determination of veracity of claims;
- 12 h) Accredite insurance companies; and
- 13 i) Undertake such activities as may be necessary to fulfill the objectives of this
14 Act.

15 For purposes of paragraph (h) of this Section, the Insurance Commission, in
16 coordination with the DENR, shall formulate guidelines for the accreditation of insurance
17 companies, within one (1) year following the effectivity of this Act.

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

21 *Sec. 6. Beneficiaries.* - The beneficiaries of the MEIC include affected communities,
22 stakeholders, and local government units within the projects' primary impact areas. Also
23 included as beneficiaries are government departments, bureaus, and agencies which are
24 tasked under the law to undertake the rehabilitation, cleanup, and monitoring of sites
25 affected by the pollution or insurable event, for which no responsible private or public
26 entity is specified.

27 The beneficiaries shall be represented by the government, particularly the DENR.
28 The IATC shall identify the affected areas and prescribe rehabilitation or remediation
29 measures pursuant to Sec. 5 of this Act.

1 *Sec. 7. Payment of Claims.* - The insurance company shall place all payments of
2 claims into special escrow accounts in government depository banks, which shall in turn
3 disburse the corresponding payment to beneficiaries, upon advice of the DENR and with
4 proper documentation.

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

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

12 The government agency tasked with rehabilitation and assigned as the beneficiary
13 of the MEIC as provided under Section 6 of this Act, shall undertake the same utilizing
14 funds coming from the insurance claim upon approval of the DENR.

15 *Sec. 8.* The failure of the owner and operator of an ECP to secure an MEIC as
16 prescribed under Section 3 hereof, or of the insurance company to pay a verified claim in
17 violation of the provisions of this Act and within reasonable time, shall be punished with
18 a fine of Five hundred thousand pesos (P 500,000.00) but not more than Two million
19 pesos (P 2,000,000.00) or imprisonment of not less than six (6) years but not more than
20 twelve (12) years, or both, at the discretion of the court.

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

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

26 Government officials, employees, and agents who approve the construction or
27 operation of environmentally-critical projects without the necessary MEIC, in violation of
28 the provisions of this Act, shall suffer the penalty of suspension of not less than thirty

1 (30) days, but not more than six (6) months after due notice and hearing in the
2 appropriate administrative proceedings.

3 *Sec. 9. Implementing Rules and Regulations.* - Within sixty (60) days from the
4 approval of this Act, the DENR shall, in coordination with the Insurance Commission,
5 promulgate the necessary rules and regulations for the effective implementation of this
6 Act.

7 *Sec. 10. Repealing Clause.* - All laws, decrees, orders, rules, and regulations, and
8 other issuances inconsistent with the provisions of this Act are repealed, amended, or
9 modified accordingly.

10 *Sec. 10. Effectivity.* - This Act shall take effect fifteen (15) days after its publication
11 in the Official Gazette or in a newspaper of general circulation.

Approved,