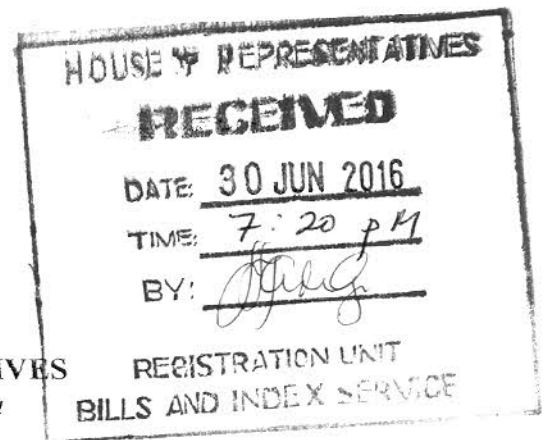




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Seventeenth Congress
First Regular Session

HOUSE BILL NO. 235



Introduced by Honorable Rodante D. Marcoleta

EXPLANATORY NOTE

Article II, Section 16 of the 1987 Constitution provides:

"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."

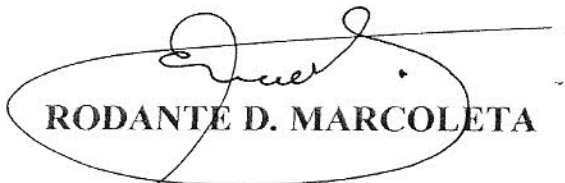
Despite existing laws that protect the environment, there are still lapses in implementing the lawful right to a healthy and balanced ecology.

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, 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 Lafayette, Philippines, Inc. also caused severe damaged to the community.

In 2013, a tragedy between 2GO Group Incorporation and Philippine Span Asia Carrier Corporation ships claimed twenty-four (24) lives and imperiled the Cardova 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 fuel. Days after the collision, oils from wrecked and sunken ships had reached five (5) barangays of Cardova town. The marine ecosystem of the concerned areas was affected causing the residents to lose their livelihoods. Nevertheless, even with these environmental disasters, there still no policy to ensure sufficient financial coverage for communities affected by man-made disasters.

This bill seeks to require mandatory environmental insurance coverage for owners and operators of environmentally-critical businesses which activities destroy or pose risks to the environment, the ecosystems and their constituent elements. The said insurance will be used to guarantee sufficient funding coverage for the needed restoration and compensate for damages caused by their operations.

In view of the foregoing, approval of this bill is highly and earnestly recommended.



RODANTE D. MARCOLETA



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AN ACT
REQUIRING MANDATORY ENVIRONMENT INSURANCE
COVERAGE TO PROMOTE ECOLOGICAL PROTECTION FOR
ENVIRONMENTALLY-CRITICAL BUSINESSES

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

SECTION 1. *Mandatory Environment Insurance Coverage.* – All owners and operators of environmentally-critical businesses shall be required to secure a Mandatory Environmental Insurance Coverage (MEIC) to compensate for damages to health and property, environmental rehabilitation, remediation and clean-up costs and expenses as a result of environmental impairment arising from their operations and to guarantee sufficient financial coverage needed for the restoration and/or reversal of said damages.

For purposes of this Act, environmentally-critical businesses refer to commercial and industrial establishments and enterprises, among others, that could pose serious risks to people and the environment with the potential to pollute air, water and soil, and that range of activities that impact on the atmosphere.

SEC. 2. *Forms of Mandatory Environment Insurance Coverage.* –

The Mandatory Environment Insurance Coverage shall be obtained only from bonding or insurance companies duly accredited by the Department of Environment and Natural Resources (DENR) in the following forms:

a) Environmental Performance Bond – which shall be required for all ongoing activities or projects and applications for Environmental Compliance Certificate or Certificate of Non-coverage to guarantee adequate and timely compliance with the environmental standards and the terms and conditions set forth by the DENR during the pre-development, development and construction phases of the project. The Environmental Performance Bond shall answer for all environmental damages, penalties and legal obligations which may arise from the failure of the project proponent to comply with its undertakings during the aforementioned phases; and

b) Environmental Pollution, Impairment and Clean-Up Liability Insurance – which shall be required for all existing and future activities or projects to cover operational phases, including those that have been issued

an Environmental Compliance Certificate or Certificate of Non-coverage. The Environmental Pollution, Impairment and Clean-Up Liability Insurance shall answer for all claims arising from damages to the environment, bodily injury, and property damage arising from a pollution event including environmental rehabilitation, clean-up or remediation costs and expenses for contamination or impairment of the environment.

The DENR shall determine which businesses or industries shall be classified as environmentally-critical and shall be required to obtain an Environmental Performance Bond or an Environmental Pollution, Impairment and Clean-Up Liability Insurance.

SEC. 3. *Pre-requisite for the Issuance of Environmental Compliance Certificate or Certificate of Non-coverage.* – Owners and operators of environmentally-critical businesses shall not be issued an Environmental Compliance Certificate or Certificate of Non-coverage by the DENR without first obtaining the Mandatory Environment Insurance Coverage required by this Act.

SEC. 4. *Environmental Risk Inspector.* – During the insurance coverage period, an environmental risk inspector from the DENR shall conduct quarterly, bi-annual or annual visits to the business firms' project to evaluate and recommend measures to prevent environmental disasters.

SEC. 5. *Beneficiaries.* – The beneficiaries of the Mandatory Environment Insurance Coverage include affected communities, stakeholders and local government units within the projects' primary impact areas. Beneficiaries also include government departments, bureaus and agencies which are tasked under law to undertake the rehabilitation, clean-up and monitoring of the projects affected by the pollution event for which no responsible private or public entity is specified.

The beneficiaries shall be represented by the government, particularly the DENR, which shall identify the affected areas and prescribe rehabilitation or remediation measures.

SEC. 6. *Payment of Claims.* – The insurance company shall place all payments of claims into special escrow accounts in government depository banks which shall in turn disburse corresponding payments to beneficiaries only upon the advice of the Environmental Management Bureau of the DENR (EMB-DENR) after proper documentation.

The EMB-DENR may create a multi-sectoral body composed of representatives from the business, labor, government, civil society and other stakeholders to assure that claims are verified and rightful parties are compensated and the environment is properly rehabilitated, cleaned-up, remediated, stabilized and protected.

The EMB-DENR shall not receive and handle payments of claims for environmental damages, penalties and charges, except for the claim component which properly accrues to it as an insurance beneficiary.

The government agency tasked with rehabilitation and beneficiary of the Mandatory Environmental Insurance Coverage as provided under Section 5 of this Act shall undertake the same with funds coming from the insurance claim upon recommendation of the EMB-DENR or the multi-sectoral body created by EMB-DENR and approved by the Secretary of Environment and Natural Resources.

SEC. 7. ***Penalties.*** –The failure of the owner and operator of environmentally-critical businesses to take out Mandatory Environment Insurance Coverage in violation of this Act shall be punished with a fine of five hundred thousand pesos (P500,000.00) but not more than two million pesos (P2,000,000.00) or imprisonment of not less than six (6) years but not more than twelve (12) years, or both, at the discretion of the court.

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

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

Government officials, employees and agents who shall approved the issuance of certificates to owners or operators of environmentally-critical businesses without the necessary Mandatory Environmental Insurance Coverage, in violation of this Act, shall suffer the penalty of suspension of not less than thirty (30) days but not more than six (6) months after due notice and hearing in the appropriate administrative proceedings.

SEC. 8. *Implementing Rules and Regulations.* – Within sixty (60) days from the approval of this Act, the Secretary of Environment and Natural Resources shall, in coordination with the Commissioner of the Insurance Commission, promulgate the necessary rules and regulations for the effective implementation of this Act.

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

SEC. 10. *Effectivity.* – This Act shall take effect fifteen days from the date of its publication in two (2) newspapers of general circulation.

Approved,