

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 771

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Introduced by DIWA Party-list Representative Emmeline Y. Aglipay – Villar

EXPLANATORY NOTE

Section, 2, Article 12 of our 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.* Further, it provides that, “*The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State.*”

This bill, a re-filing of House Bill No. 3637 filed by Rep. Ibarra “Barry” M. Gutierrez, III and Rep. Walden F. Bello last 16th Congress, seeks to create an Environmental Impact Assessment Act in order to create metrics that will enable the government to pursue environmental offenders and abusers. This bill is also relevant in regulating extractive industries which harm our environment. I earnestly seek the passage of this bill in order for the State to carry out its Constitutional mandate of protecting and advancing the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.


EMMELINE Y. AGLIPAY – VILLAR
Representative, DIWA Party-list

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Introduced by **DIWA Party-list Representative Emmeline Y. Aglipay – Villar**

AN ACT
ENHANCING THE PHILIPPINE ENVIRONMENTAL IMPACT
ASSESSMENT SYSTEM, STRENGTHEN PUBLIC
PARTICIPATION THEREIN, AND FOR RELATED PURPOSES

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

SECTION 1. Short Title. This Act shall be known as the “*Environmental Impact Assessment Act of 2016.*”

SECTION 2. Declaration of Policy. – It is the policy of the State to adhere to the principle of sustainable development where economic growth is pursued with concern and consideration for the protection of the environment and natural resources for present and future generations.

The State shall, at all times, promote a balanced and healthful ecology through the adoption of measures that determine the adverse environmental impacts of economic undertakings and prescribe appropriate schemes and regulations to avoid and mitigate the same. In the implementation of this policy, the State shall be guided by the following principles:

- (a) Each generation as the responsibility as trustee of the environment for future generations.
- (b) The protection and upliftment of the quality of life of all Filipinos is intimately related to the quality of the natural environment.
- (c) Filipinos should be assured of a safe and productive environment.
- (d) The widest range of beneficial uses of the environment can be attained without degradation to its integrity and sustainability, or without risk to the health, safety and livelihood of persons and local communities.
- (e) Historical, cultural and natural aspects of the country’s national patrimony shall be preserved.
- (f) Pursuant to the internationally recognized rights of people to information and self-determination, public participation in decision-making, including project planning and policy formulation, shall be promoted.

SECTION 3. Aids to Construction. - The provisions of this Act shall be construed and interpreted in a manner consistent with the following principles:

- (a) The environment is a resource not only for present but also for future generations.
- (b) Marginalized communities and vulnerable sectors will always be disadvantaged in formal legal processes.

SECTION 4. Definition of terms. – For purposes of this Act, the following terms shall have the following meanings:

- (a) “*Bureau*” refers to the Environmental Management Bureau.
- (b) “*Certificate of Non-Coverage*” refers to the document issued by the National Environmental Protection Commission or its duly authorized representative certifying that the proposed project or undertaking does not fall within the category of critical projects. A project or undertaking covered by *Certificate of Non-Coverage* does not require the issuance of an Environmental Compliance Certificate prior to project implementation and operation.
- (c) “*Co-located projects*” are projects, or a series of similar projects or undertakings, located in a contiguous area, or a project subdivided into several phases or stages.
- (d) “*Commission*” refers to the National Environmental Protection Commission created by virtue of this Act.
- (e) “*Critical project*” refers to any project or activity that has a high potential to create an adverse impact on the environment, on the safety and health of persons and on their quality of life.
- (f) “*Environmental Compliance Certificate*” refers to the document issued by the President of the Philippines or his duly authorized representative certifying that the project under consideration will not bring about unacceptable environmental impact and that the proponent has complied with all the requirements of the Environmental Impact Assessment System.
- (g) “*Environmentally Critical Area*” refers to a declared protected area, including but not limited to those declared under Republic Act No. 7586, otherwise known as the *National Integrated Protected Areas System Act of 1992*, and other areas, which are ecologically important or specially sensitive to degradation, such as watersheds, fish, sanctuaries, and similar areas.
- (h) “*Environmentally Critical Projects*” refer to all projects declared by the Commission as a *critical project*, as the latter is defined in this Section.
- (i) “*Environmental Impact Assessment*” refers to the processes of identifying, forecasting and evaluating the future state of the environment as a consequence of a particular activity
- (j) “*Environmental Impact Statement*” refers to the documentation of the processes undergone by a project to assess its environmental impacts, and which includes documentary requirements as determined according to the nature or type of project being proposed.

- (k) “*Environmental Impact Statement*” refers to the documentation of the studies of the environmental impact of a project, including to a discussion of the direct and indirect consequences upon human welfare and ecological and environmental integrity. An *Environmental Impact Statement* may vary from project to project but shall in every case contain all relevant environmental information and details about the project.
- (l) “*Free and Prior Informed Consent*” shall mean the consensus of all members of the affected communities to the implementation of a proposed project under the environmental impact assessment system: *Provided*, That the term shall refer to such consent which is free from any form of external fraud, manipulation, interference or coercion: *Provided, further*, That such consent is obtained after a full and honest disclosure of the intent and scope of the project: *Provided, finally*, That such a disclosure was made in a language or manner that is understandable to the community affected.
- (m) “*Policy and Programmatic Environmental Impact Assessment*” refers to the review process and evaluation made by the Commission of projects on contiguous areas, focusing on the following:
- (n) “*Project*” means activities including actions, programs, or undertakings, regardless of magnitude, which may have significant impact on the environment.
- (o) “*Principal investor*” means any person, natural or juridical, of Filipino or foreign citizenship or registration, which owns at least a thirty percent (30%) equity in the paid-in capital stock of the proponent firm.
- (p) “*Proponent*” refers to persons, whether natural or juridical, owners, agents, organizations, or other entities planning, proposing or otherwise undertaking a project, program or policy, including government agencies, government-owned and controlled corporations, and local government units.
- (q) “*Preparer*” refers to persons, whether natural or juridical, other than the Proponent who actually made any of the reports or statements, which should be required of the Proponent
- (r) “*Public Participation*” means an open, transparent, gender-sensitive, fair, truthful, and community-based process consisting of one or several activities the primary object of which is to provide a venue where relevant issues concerning the project and its effects on the environment, including on the health of persons and communities and their quality of life, are to be presented and discussed by all stakeholders, at all relevant stages of project implementation including project planning and development and post-assessment monitoring.
- (s) “*Social Acceptability*” refers to the acceptance of a project by affected communities based on timely and informed participation in the assessment process with particular regard to environmental impacts that are of concern to them.
- (t) “*Social Acceptability*” refers to the documentation of the process, which is to be based on public participation, undertaken to secure the consent of the affected communities to the project, whether or not such consent is actually secured.

- (u) “Stakeholder” includes all persons or entities who may be significantly affected by the project or undertaking, whether directly or indirectly.

CHAPTER II ENVIRONMENTAL IMPACT ASSESSMENT SYSTEM

SECTION 5. Environmental Impact Assessment System. - The Environmental Impact Assessment System is intended to identify, forecast, and evaluate the adverse direct and indirect effects of a proposed project on the environment as a result of the implementation of the project or any of its components, including on the health of persons. All Proponents in tending to implement any project which may have adverse impact on the environment shall undertake an Environmental Impact Assessment to disclose the potential impacts of the proposed project or activity for public review.

The Environmental Impact Assessment shall be integrated into the planning process, and shall require public participation as described in Section 17 of this Act.

The assessment process should result in the production of an Environmental Impact Assessment Report, which shall disclose all findings and contain all requirements, including but not limited to the *Free and Prior Informed Consent document*, a list of applicable national and local environmental laws and ordinances, and others as provided in Sections 10 and 11 of this Act.

SECTION 6. Coverage. - The Environmental Impact Assessment System shall apply to all projects planned or proposed by any individual, organization or instrumentality including government-owned or controlled corporations, which can potentially have adverse effects on the environment, including the health of persons, of classifications under Section 7 of this Act.

SECTION 7. Taxonomy and Guidelines of Appraisal. - To enable the Commission to effectively pursue the intent and purpose of the Environmental Impact Assessment System, a technical classification and evaluation scheme shall prescribe the necessary requirements for the issuance of Environmental Compliance Certificates to proposed activities and projects. The primary aim of the scheme is to guide the determination of the nature or characteristics of a proposed project and its potential to create adverse impact on environmental resources in the project area.

For the purpose of this Act, projects may be classified, as either covered or not covered by the Environmental Impact Assessment System and as such shall be treated accordingly in the approval of the projects. The Commission may issue additional guidelines for project classification and evaluation in keeping with applicable laws and rules. The various project categories and classifications under this Act shall be as follows:

- (a) *Type A*: Environmentally Critical Projects (ECPs);
- (b) *Type B*: Projects located in Environmentally Critical Areas (ECAs) tending to cause adverse environmental impacts;
- (c) *Type C*: Projects not falling in any of the aforesaid categories

- but may have significant or adverse environmental impacts;
- (d) *Type D.* Projects projected to create positive impact on the environment; or
- (e) *Type E.* Exempted projects.

The Commission shall issue further rules and regulations as may be necessary to effectively implement the intent and purpose of this section.

SECTION 8. Review of Classification of Projects and Categories of Assessment. - The Commission shall review and update the current classification of programs and projects within the coverage of the Environmental Impact Assessment System to mitigate hazards to public health and welfare: *Provided*, That the Commission shall factor in all information on potential adverse environmental impacts of the proposed programs and projects in the formulation of additional classification schemes for coverage and/or non-coverage.

SECTION 9. Environmental Impact Assessment Reportorial System. –

- (a) If a project is considered a Type A project, the Proponent shall be required to prepare an Environmental Impact Statement (EIS).
- (b) If the project is located within a *Type B* project, the Proponent shall be required to submit an Initial Environmental Evaluation (IEE), without prejudice to the submission of an Environmental Impact Statement or any part thereof as may be further required by the Commission upon review of the IEE. At its option, a Proponent of *Type B* project may submit an EIS instead of an IEE, pursuant to guidelines to be promulgated by the Commission
- (c) If a project falls under *Type C*, the Proponent shall submit a Project Description to the Commission which shall, thereafter and within a reasonable time after the submission of the Project Description, determine whether the Proponent will be further required to submit an EIS or an IEE. The same shall apply *Type D* projects.

Prior to any development or further activity, projects which have undergone a previous assessments, shall undergo a new assessment as regards any development or activity not covered by the previous assessment. Such development or further activity may be deemed as a separate and distinct project.

Co-located projects shall be required to conduct an Environmental Impact Assessment that shall consider the cumulative environmental impacts of all the project components. A single Environmental Compliance Certificate covering all co-located projects may be issued for such co-located projects except where the Commission determines that each or any component should be treated as a separate and distinct project.

The Commission shall issue further rules and regulations, including

guidelines for the determination of exempted projects, as may be necessary to effectively implement the intent and purpose of this Section.

SECTION 10. Environmental Impact Statement. – An Environmental Impact Statement shall include, but shall not be limited to, the following:

- (a) The *Project Description*, including data on project location, specifically describing the primary and secondary impact zones, project rationale, alternatives, including alternative sites or actions, no action alternatives, and project phases;
- (b) *Scoping Report*;
- (c) *Social Acceptability Report*, detailing the process of public participation, and containing the *Free and Prior Informed Consent document*;
- (d) *Baseline Environmental Conditions* for land, water, air, and people;
- (e) *Impact Assessment*, including a discussion of the impact of the project or undertaking on the environment and public health;
- (f) *Environmental Risk Assessment*, when appropriate;
- (g) *Environmental Management Plan*;
- (h) *Proposals for Environmental Monitoring and Guarantee Funds* when required;
- (i) A list of relevant national and local environmental laws, including but not limited to ordinances and land and water use plans, which require compliance;
- (j) *Supporting Documents*, such as documents on technical and socio-economic data used, gathered, or generated;
- (k) *Accountability Statements* of the Preparer and the Proponent;
- (l) For projects located in ancestral lands or domains, as defined or to be defined by law, of indigenous communities, a specific chapter in the socio-economic impact assessment shall be devoted to a discussion of indigenous peoples' concerns and possible socio-economic, political and cultural impacts of the proposed project on such people;
- (m) For projects or undertakings with significant impact on women, a specific chapter in the socio-economic impact assessment shall be devoted to a discussion and consideration of gender issues.
- (n) For projects or undertakings with significant impact on population, a specific chapter on the socio-economic impact assessment shall be devoted to a discussion of the relationship among population, development, and the environment.

The Commission shall promulgate the rules and regulations necessary to effectively implement the procedure by which an EIS is required, produced and assessed.

SECTION 11. Initial Environmental Examination. - The Initial Environmental Examination shall include, but shall not be limited to, the following:

- (a) A full description of the environmental setting and receiving environment, including the primary and secondary impact areas;
- (b) A brief description of the project or undertaking and its process of operation;
- (c) A brief description of the environmental impact of the project or undertaking, including its socio-economic impact;
- (d) The *Social Acceptability Report*, detailing the process of public participation, and containing the *Free and Prior Informed Consent* document;
- (e) A matrix of mitigation and enhancement measures;
- (f) A documentation of the consultative process undertaken, when appropriate;
- (g) A list of relevant national and local environmental laws, including but not limited to ordinances, land and water use plans, and declarations on the protected or critical nature of the area where the project is located, which require compliance;
- (h) A brief discussion of indigenous peoples' concerns and possible socio-economic, political and cultural impacts of the proposed project or undertaking on such people for projects or undertakings located in ancestral lands or domains, as defined or to be defined by law, of indigenous communities;
- (i) A brief discussion of gender issues for projects or undertakings with significant impact on women;
- (j) A brief discussion of the relationship among population, development, and the environment for projects or undertakings with significant impact on population; and
- (k) *Accountability Statements* of the Preparer and the Proponent.

The Commission shall promulgate the rules and regulations necessary to effectively implement the procedure by which an Initial Environmental Examination (IEE) is required, produced and assessed. After due appraisal of the IEE, the Commission shall decide to either deny or issue an Environmental Compliance Certificate or to further require the Proponent to produce an Environmental Impact Statement, or any part thereof as it may deem necessary. In all cases, the Proponent shall be notified by the Commission of its action within a reasonable amount of time.

SECTION 12. Environmental Compliance Certificate. – An Environmental Compliance Certificate shall issue only after favorable evaluation, within a reasonable time, by the Commission of the pertinent environmental impact report, whether such is in the form of an Environmental Impact Statement or an Initial Environmental Examination. No program or project shall be implemented without being covered by an Environmental Compliance Certificate. In evaluating environmental impact reports, the Commission may seek the assistance of other government agencies and concerned stakeholders, but in all cases shall be the lead agency in such evaluation. In every case, an Environmental Compliance Certificate shall be issued subject to

conditions set forth by the Bureau, the non-fulfillment or violation of which shall be grounds for revocation of the Environmental Compliance Certificate and administrative, civil, or criminal charges.

SECTION 13. Local Monitoring Bodies. - Local monitoring bodies shall be organized by the Commission consisting of representatives from the regional or local office of the Commission, the Local government unit having jurisdiction over the project area, local communities and stakeholders, that shall monitor the compliance of a project or projects to the terms and conditions set forth in the Environmental Compliance Certificate or Certificate of Non-Coverage.

CHAPTER III **PROGRAMMATIC ENVIRONMENTAL IMPACT ASSESSMENT SYSTEM**

SECTION 14. Mainstreaming Environmental Impact Assessment in National Policy Formulation. - Cognizant of the need to ensure the formulation of policies, programs, and plans founded upon sound environmental considerations and the principles of sustainable development, it is hereby declared the policy of the State to systematically integrate Environmental Impact Assessment concepts and processes in various phases of policy formulation by all national agencies and instrumentalities of government. The Commission shall, within a reasonable period from the effectivity of this Act, formulate and publish guidelines for identifying, appraising and addressing potential environmental impacts of national policies in order to incorporate environmental safeguards in to the development process. There shall be a regular review of such guidelines considering relevant information and best practices in order to enhance the quality of Environmental Impact Assessment as a policy and planning tool.

SECTION 15. Policy and Programmatic Environmental Impact Assessment. - Policy and Programmatic Environmental Impact Assessment shall be required by the Commission for proposed policies, programs and plans, in the following instances:

- (a) The proposal pertains, but is not limited, to agriculture, forestry, fisheries, energy, health, manufacturing, resource exploration and extraction, infrastructure, transport, waste management, water management, telecommunications, tourism, coastal zone management, national, regional, provincial and municipal or city development planning or land use;
- (b) Implementation of the proposal may pose significant environmental risks or result in adverse or doubtful effects on the environment, including the health of individuals or communities;
- (c) The proposal consists of several components or a cluster of projects co-located in area such as an industrial estate or export processing zone.

SECTION 16. Relationship with the per project Environmental Impact

Assessment System. - As such policy and planning tool, the Policy and Programmatic Environmental Impact Assessment, provided in Section 15 of this Act, is intended to strengthen and support, and not to replace the per project Environmental Impact Assessment System: Provided, that projects included in policies, programs, or plans that have undergone Policy and Programmatic Environmental Impact Assessment, shall not be automatically exempted from the per project Environmental Impact Assessment System.

CHAPTER IV FREE AND PRIOR INFORMED CONSENT

SECTION 18. Free and Prior Informed Consent. - It is hereby declared to

be the policy of the State to ensure the direct and meaningful participation of affected communities and sectors in the approval of policies, programs and projects with possible adverse impacts on the environment. The social acceptability of the project, in the form of the Free and Prior Informed Consent of affected persons or communities, shall be a condition precedent to the approval of any program or project. Toward this end, Proponents of projects shall, at all times, be required to conduct scoping sessions and submit to public consultations.

SECTION 19. Nature and Purpose of Public Consultations and Scoping

Processes. - Environmental assessment processes, including the public consultation and scoping procedures, are not conducted for the purpose of encouraging or soliciting the concerned communities' approval of or support for the project being discussed, but as a fair, truthful, and comprehensive forum where all parties may present relevant issues concerning the project and its perceived significant effects on the environment, including the health of persons and communities and their quality of life. It shall be incumbent upon project Proponents and representatives from local government units and other government agencies, including those agencies with jurisdiction over the project, to present all and any relevant data and aspects of the project that may affect the community, whether positively or adversely. Such data shall be complete, accurate, and unbiased.

Within six (6) months from the effectivity of this Act, the Commission shall promulgate implementing rules and regulations to ensure the objectivity of the conduct of the Environmental Impact Assessment and the truthfulness of all presentations and representations made therein by all parties thereto. The said implementing rules and regulations shall also provide for penalties where parties, including representatives from local government units and other government agencies, including those with jurisdiction over the project, fail to comply with the duties and responsibilities vested upon them by this Section.

SECTION 20. Conduct of Scoping. - Scoping shall be initiated by the

proponent at the earliest possible stage of project planning, to determine the range of actions, alternatives and impacts to be examined in the Environmental Impact Assessment process. The scoping process shall be conducted in a language and manner that is understandable to the community concerned, and the proceedings shall be duly recorded.

The objectives of the scoping are the following:

- (a) Provide an early link between the Commission and the Proponent to ensure that the Environmental Impact Assessment addresses relevant issues and presents results in a form consistent with Environmental Impact Assessment review requirements;
- (b) Allow stakeholders to make their concerns known to ensure that the Environmental Impact Assessment adequately addresses the relevant issues;
- (c) Establish an agreement at the outset of the Environmental Impact Assessment between the Proponent, the Department of Environmental and Natural Resources and stakeholders on what issues and alternatives are to be examined;
- (d) Address issues on carrying or assimilative capacity of the environment, and identify anticipated legal constraints or compliance requirements regarding the project proposal;
- (e) Determine whether the project or undertaking requires the conduct of an environmental risk assessment; and
- (f) Determine and agree on the process of dealing with issues relating to social acceptability.

Based on the scoping process, the Proponent shall submit a formal scoping report to the Commission. The record of the proceedings shall be attached to the formal scoping report.

The Commission shall review the scoping report submitted by the Proponent and, after consultation with the latter and the community, determine the actual scope of the EIS. In determining the scope of the EIS, the Commission shall take into account the concerns and recommendations of stakeholders.

SECTION 21. Public Consultation. - After scoping and the submission of the formal scoping report, a series of public consultations shall be initiated by the Commission to determine the social acceptability of the project. For this purpose, a multi-sectoral committee shall be created for the project to assist the Commission in ensuring that the requisite consent of affected persons or communities is obtained consistent with guidelines issued for such purpose. The Commission may seek comments and recommendations , in writing, of other government agencies and stakeholders with expertise over the proposed project and the possible impacts that may be generated.

Before the conduct of a public consultation, notice thereof shall be published once a week for three (3) consecutive weeks in any newspaper of general circulation at least thirty (30) calendar days prior to the consultations and shall be posted in a conspicuous place in the municipality or barangay where the project is to be located.

All expenses incurred relating to the notices shall be borne by the project Proponent.

SECTION 22. Social Acceptability Report. - The proceedings in the public

consultations shall be summary in character and need not strictly adhere to the technical rules of evidence and procedure. Information on the proposed projects, including environment impacts, shall be disseminated or presented in a manner and language understandable to the community.

The proceedings shall be duly recorded, which such record being attached to the *Social Acceptability Report* that shall be rendered by the hearing officers designated by the Commission within fifteen (15) working days from the termination of the consultations: *Provided*, that the *Social Acceptability Report* shall be part of the documentary requirements in the environmental impact report, whether in the form of an EIS or an IEE.

Should the project obtain the *Free and Prior Informed Consent* of the community concerned, the document representing the same shall be attached to the *Social Acceptability Report*. The *Free and Prior Informed Consent document* shall be an indispensable requisite for the issuance of an Environmental Compliance Certificate: *Provided*, that if the community does not give its consent to the project, such shall be stated in the *Social Acceptability Report*.

Commission shall issue necessary guidelines for the proper conduct of consultations to obtain the most truthful and accurate expression of people's consent to the proposed project. In the conduct of consultations, all parties shall adhere to the standards set by the Commission for such purpose.

CHAPTER V ACTIONS

SECTION 23. Jurisdiction of the Courts. –

- (a) Notwithstanding the provisions of Republic Act No. 8975, which governs the expeditious implementation and completion of government infrastructure projects, a court may issue a temporary restraining order or a writ of preliminary injunction against any project which shall attempt to operate in violation of any provision of this Act or its implementing rules and regulations.
- (b) The issuance of a temporary restraining order or a writ of preliminary injunction shall automatically suspend the efficacy of a previously issued Environmental Compliance Certificate and shall allow prosecution against the Proponent for a violation of the provisions of this Act.
- (c) The temporary restraining order or writ of preliminary injunction shall be enforceable throughout the Republic of the Philippines.
- (d) The power of the courts to issue such preliminary injunction shall not prejudice the power of the Commission to issue cease and desist orders as provided for in Section 28 of this Act.

SECTION 24. Administrative Action. - Without prejudice to the right of any affected person to file any other criminal or civil action, the Commission shall, on its own instance or upon verified complaint by any person, institute administrative proceedings against any person who violates any order, rule or regulation issued by the Commission with respect to this Act.

SECTION 25. Citizen Suits. - For purposes of enforcing the provisions of this Act or its implementing rules and regulations, any citizen may file an appropriate civil, criminal, or administrative action in the proper courts against:

- (a) Any person who violates or fails to comply with the provisions of this Act or its implementing rules and regulations, or who violates the terms and conditions set forth by the Commission in the Environmental Compliance Certificate or Certificate of Non-Coverage;
- (b) The Commission or other implementing agencies with respect to orders, rules and regulations issued inconsistent with this Act; and
- (c) Any public officer who willfully or grossly neglects the performance of an act especially required as a duty by this Act or its implementing rules and regulations, or abuses his authority in the performance of his duty or, in any manner, improperly performs his duties under this Act or its implementing rules and regulations.

Provided, That no court action shall be filed earlier than thirty (30) days after receipt of die notice given to the concerned public officer or the alleged violator, and no appropriate action has been taken thereon.

The court shall exempt such action from the payment of filing fees, except fees for actions not capable of pecuniary estimation, and shall, likewise, upon *prima facie* showing of the non-enforcement or violation complained of: *Provided*, That no injunction bond shall be required from the person filing the action for the issuance of a writ of preliminary injunction.

Within thirty (30) days, the court shall make a determination if the initiatory complaint filed therewith is malicious and baseless. If the result of such a determination shows that the court action is malicious and baseless, the court shall dismiss the action accordingly and award attorney's fees and damages, as it may seem appropriate.

SECTION 26. Independent Action. - The filing of an administrative action against such person or entity does not preclude the right of any other person to file any criminal or civil action. Such civil or criminal action shall proceed independently of the administrative action.

SECTION 27. Suits and Strategic Legal Actions Against Public Participation and for the Enforcement of this Act. - It shall be the duty of the investigating prosecutor or the court, as the case may be, to immediately make a determination of whether such an action has been filed to harass, vex, exert undue pressure, or stifle legal resources of the person complaining or enforcing the provisions of this Act. The determination shall be made within a period not exceeding thirty (30) days. In case the investigating prosecutor or the court determines that such an action was filed to harass, vex, exert undue pressure or stifle legal resources, the

prosecutor or the court shall terminate the investigation or dismiss the case and award attorney's fees and damages as it may deem appropriate.

SECTION 28. Lien upon Properties of Violators. - Fines and penalties imposed pursuant to this Act shall constitute a lien upon both immovable and movable, tangible and intangible, properties of the violator. In case of the insolvency of the violator, such lien shall be inferior only to the lien for laborers' wages under Articles 2241 and 2242 of Republic Act No. 386 otherwise known as the new *Civil Code of the Philippines*.

SECTION 29. Power to Issue Orders. - Upon a verified complaint by any person or *motu proprio*, the Commission shall require the Proponent to remedy any practice which was not made in accordance with the provisions of this Act, its implementing rules and regulations, or other orders, laws, statute, or standard pertaining to environmental, safety or health concerns: *Provided*, That in case of imminent danger to life or property, the Commission may issue a cease and desist order and summarily suspend the operations and activities until appropriate measures are taken by the Proponent and the danger is removed.

SECTION 30. Grounds for non-issuance or revocation of an Environmental Compliance Certificate. - Environmental Compliance Certificate shall in no case be issued, and a previously issued Environmental Compliance Certificate shall be suspended or revoked by the Commission or the Bureau, as the case may be, upon the following grounds:

- (a) Non-filing or late filing of requirements;
- (b) Violation of or non-compliance with terms and conditions of the Environmental Compliance Certificate;
- (b) Non-payment of taxes or fees;
- (c) Falsehood or omission of statement and facts in the EIS, IEE, *Project Description*, or any part thereof, or during the conduct of public consultations such as, but not limited to, scoping sessions and public hearings; or
- (d) Showing of loss, injury, or damage to any person as a result of the implementation of the project or any part or activity thereof, without need to show bad faith or any degree of negligence on the part of the Proponent.

Such non-issuance, suspension or revocation of an Environmental Compliance Certificate shall not prejudice the right of any person to file appropriate administrative, civil, or criminal suits as provided in this Act.

SECTION 31. Revocation of a Certificate of Non-Coverage. - A previously issued CNC may be revoked and cancelled for any of the grounds for the revocation of an Environmental Compliance Certificate, as provided in Section 30 of this Act: *Provided*, That the Bureau may, at any time, and after the making a proper

determination, reclassify the project as a critical project or ask the Proponent to submit additional requirements: *Provided*, further, That whenever the implementation of the project or any part of the project is found to cause damage, injury, or loss to persons and property, the project and its Proponent may be subject to the same actions, liabilities and penalties as if the project is a critical project.

SECTION 32. Strict Liability in Cases of Loss, Injury, or Damage to Persons or Property and Award of Damages.- The Proponent shall be liable for damages for any harm, loss, or uljtry to persons and property: *Provided*, That it is dearly shown that the act or omission complained of is in violation or non-compliance of this Ace, its implementing rules and regulations, or the terms and conclusions set form in tlle Environmental Compliance Certificate or CNC: *Provided*, further, That the showing of a violation or non-compliance to this Act, its implementing rules and regulations, or to the terms and conditions of an Environmental Compliance Certificate shall be a conclusive prescription of the proponent's fault or negligence.

SECTION 33. Solidary Liability of Chief Operating or Executive Officer of Proponent Firm or Corporation. - The separate and distinct legal personality of the Proponent firm notwithstanding, the chief operating officer, chief executive officer, and principal investors of the Proponent firm shall be jointly and severally liable for any financial liability or award of damages made by the court under the preceding section. The same shall apply to transnational corporations and foreign firms licensed to do business in the Philippines.

CHAPTER VI PENALTIES

SECTION 34. Operation without a Required Environmental Compliance Certificate. - Any critical project which shall operate without the required Environmental Compliance Certificate shall face closure, suspension of development or construction or cessation of operations until such time that proper environmental safeguards are put in place and the necessary Environmental Compliance Certificate has been issued: *Provided*, That the project Proponent shall be fined an amount equivalent to two hundred percent (200%) of its authorized capital stock or, in the case of an individual, of its net worth, or four hundred percent (400%) of its gross profit, whichever is higher: *Provided*, That the chief operating or executive officer of the Proponent firm shall be held criminally liable and be imprisoned for a period not less than five (5) years but not more than ten (10) years at the discretion of the court, and shall be jointly and severally liable for actual moral, or exemplary damages with the Proponent firm, and the principal investors, as may be found by the court.

SECTION 35. Violations of Terms and Conditions of the Environmental Compliance Certificate. - Any project Proponent found in violation of the terms and conditions set forth in the Environmental Compliance Certificate shall face closure, suspension of development or construction or cessation of operations: *Provided*, that

the project Proponent shall be fined an amount equivalent to two hundred percent (200%) of its authorized capital stock or, in the case of an individual, of its net worth, or four hundred percent (400%) of its gross profit, whichever is higher: *Provided*, That the chief operating or executive officer of the proponent firm shall be held criminally liable and be imprisoned for a period not less than five (5) years but not more than ten (10) years at the discretion of the court, and shall be jointly and severally liable for actual, moral, or exemplary damages with the proponent firm, and the principal investors, as may be found by the court.

SECTION 36. False Statements or Representation. - Any project Proponent who is found to have knowingly and willfully made a false representation or an untruthful or incomplete presentation of material or relevant facts and findings to the government or to the public shall be fined a minimum of fifty thousand Philippine pesos (PhP50,000.00) but not more than one hundred thousand Philippine pesos (PhP100,000.00), upon the discretion of the Commission, for every false representation or statement. In cases where harm, loss, or injury be sustained by the community or any of its members as a result of a false representation or statement, whether or not made knowingly or willfully, the Proponent shall be fined a minimum of two hundred fifty thousand Philippine pesos (PhP250,000.00) to a maximum ten percent (10%) of the project cost or five hundred thousand Philippine pesos (PhP500,000.00), depending upon the nature and degree of the loss, injury, or damage sustained, whichever is higher, to be imposed at the discretion of the Commission, and without prejudice to the filing of administrative, civil, or criminal charges.

SECTION 37. Violation by Public Officials of the Duties Reported by this Act. - Any government official tasked with the implementation of this Act or any of its components who fails to enforce the provisions of this Section shall be charged administratively and, if found guilty pursuant to Section 24, be subject either to suspension from office for a minimum period of one (1) year without pay, or to separation from service without benefits, subject to existing civil service laws. Further, the violator shall be held criminally liable and be imprisoned for a period not less than two (2) years but not more than five (5) years, at the discretion of the Court.

SECTION 38. Financial Guarantees for Environmental Rehabilitation and Injuries to Communities. - The Commission shall establish a mechanism that systematically addresses the need for clean-up and rehabilitation of areas damaged as a result of the implementation of projects taking into consideration the resources required to undertake the rehabilitation activities, as well as to ensure just and timely compensation for any adverse effect which project or program implementation may directly or indirectly cause to the environment or the community. For these purposes, the program and project Proponents shall be required to put up a guarantee fund and/or any other trust, insurance, or financial mechanism as the Commission may deem appropriate: *Provided*, That the guarantee fund or funds shall be utilized for damage caused during any stage. Of project implementation and after the termination of the project or program: *Provided, further*, That the establishment of such funds shall not exempt the proponents from civil or criminal liability for violations of this Act, its implementing rules and regulations, or the terms and conditions imposed upon

them by the Commission.

CHAPTER VII

IMPLEMENTATION MECHANISM AND RESPONSIBILITIES

SECTION 39. National Environmental Protection Commission. - To carry out the policies herein set forth, there shall be created the National Environmental Protection Commission, which shall replace the National Environmental Protection Commission created by Presidential Decree No. 1121, and which shall be the primacy government agency responsible for the implementation of this Act and the formulation of its implementing rules and regulations. It shall also be the lead agency in the conduct of environmental impact assessments and issuance of Environmental Compliance Certificates.

SECTION 40. Mandate. - The Commission shall protect and promote the people's right to a healthful environment and at all times shall be guided by the principles of sustainable development and meaningful public participation in its decision-making processes.

In no instance may the Commission be put under the supervision or control of the Department of Environment and Natural Resources.

SECTION 41. Composition. - The Commission shall be an independent agency under the Office of the President and shall be composed of three (3) Commissioners, one of whom shall be the Chairperson.

The Board of Commissioners shall be comprised in this wise:

- (a) One (1) Commissioner shall come from the scientific community with expertise in natural resource management and conservation of aquatic ecosystems and biodiversity;
- (b) One (1) Commissioner shall come from the scientific community with expertise in natural resource management and conservation of terrestrial ecosystems and biodiversity; and
- (c) One (1) Commissioner shall be a member of the Philippine bar in the practice of environmental law.

Provided, that at least one Commissioner shall be female.

The Commissioners shall be appointed by the President of the Philippines from a pool of individuals from the communities or sectors to be represented by each Commissioner.

SECTION 42. Qualifications, Tenure, Compensation. - The Chairperson and the two (2) Commissioners must be natural born Filipino citizens, are at least thirty-five (35) years of age at the time of appointment, with at least ten (10) years of

experience in their field of expertise, and must be of proven honesty and integrity; *Provided*, That the Commissioners shall hold office for a period of three (3) years; *Provided, further*, That no person shall serve for more than two (2) consecutive terms and that in case of a vacancy, the new appointee must fully meet the qualifications of a Commissioner and hold office for a full term and in no case shall a member be appointed or designated in a temporary or acting capacity.

The Chairperson and the Commissioners shall be entitled to compensation in accordance with laws on compensation of public officers and employees.

SECTION 43. Removal from Office. - Any member of the Commission may be removed from office by the President of the Philippines upon a verified complaint by any adversely affected community, before the expiration of his term for cause and after complying with due process requirement of law.

SECTION 44. Appointment of Commissioners. - The President of the Republic of the Philippines shall appoint the three (3) Commissioners of the Commission within sixty (60) days from the effectivity of this Act.

SECTION 45. Powers and Functions. - To accomplish its mandate, the Commission shall have the following powers and functions:

- (a) Serve as the primary government agency responsible for the implementation of this Act;
- (b) Promulgate rules and regulations necessary for the implementation of this Act;
- (c) Regularly monitor, review, and assess such rules and regulations to ensure that these adhere to the policy and objectives of this Act and the mandate of the Commission, and submit a yearly report to the President of the Republic of the Philippines;
- (d) Issue Environmental Compliance Certificates and deny applications thereof and set terms and conditions therein once issued;
- (e) Monitor and require the continued compliance of projects this Act, its implementing rules and regulations, or to the terms and conditions of an Environmental Compliance Certificate, and penalize persons for violations or non-compliance;
- (f) Recommend possible legislation, policies and programs related to environmental assessment;
- (g) Formulate minimum environmental compliance standards;
- (h) Provide technical assistance for the implementation of this Act;
- (i) Gather timely and authoritative information concerning the conditions and trends in the quality of the environment both

- current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in Chapter I of this Act, and to compile and submit to the President of the Republic of the Philippines studies relating to such conditions and trends;
- (j) Assist or supervise the conduct of public consultations and ensure that such are carried out according to the policy set forth in this Act;
 - (k) Conduct public hearings in cases where there is a strong showing of concern by the public over a proposed project, policy or program;
 - (l) Develop and conduct capability-building modules, training, and other activities for the benefit of implementers as well as the public to support the effective implementation of this Act; and
 - (m) Formulate and disseminate information on environmental assessment and compliance matters to the general public.

SECTION 46. Accessibility and Transparency. - Subject to such limitations as may be provided by law or by rules and regulations promulgated pursuant thereto, all official records, documents and papers pertaining to official acts, transactions or decision, as well as research data used as basis for policy development of the Commission shall be made accessible to the public.

SECTION 47. Offices within the Commission. - In furtherance of its mandate and to effectively implement the provisions of this Act and its implementing rules and regulations, the Commission shall have the following offices:

- (a) *Office of the Secretariat* - to provide overall supervision of the Commission and is responsible directly to the Commissioners and has the mandate of enhancing public health and environmental protection through effective management of Commission's human, financial, and physical resources.
- (b) *Office of Enforcement and Compliance Assurance*. - is primarily responsible for the enforcement of this Act and its rules and regulations, for the review of documentary and other submissions and requirements in relation to the issuance of Environmental Compliance Certificates, and the assurance of compliance by projects to environmental laws and regulations, including but not limited to those under this Act. The Office of Enforcement and Compliance Assurance shall submit its recommendations to the Commission which shall decide *en banc* on the issuance or non-issuance of Environmental Compliance Certificates.
 - 1) *Officer of Environmental Justice* - is responsible for

CHAPTER VIII

community concerns, with special attention to indigenous groups, fisherfolk, farmers, women, and other sectors within specific affected communities. The Office of Environmental Justice shall assist in ensuring compliance with the public participation and social acceptability requirements of this Act.

- 2) *Post-assessment Monitoring Committee* - is responsible for the monitoring of projects and ensuring their compliance to environmental laws and regulations after completion of the assessment process, as well as compliance to the terms and conditions set forth in previously issued Environmental Compliance Certificates.
- (c) *Office of General Counsel* - is the Commission's legal adviser. It will provide legal assistance to all organizational elements of the Commission with respect to its programs and activities as well as legal opinions, legal counsels, and litigation support. In addition, the Office of General Counsel shall assist in the formulation of the Commission's policies and programs, and shall provide legal assistance to the communities affected by violations or non-compliance with provisions of this Act.
- (d) *Office of Research and Development* - is responsible for the research and development needs of the Commission for its operating programs and to address policy issues.
- (e) *Office of Public Information and Training* - is responsible for development and dissemination of information and education materials and modules, as well as in providing capacity-building programs for environmental assessment practitioners and communities.

SECTION 48. Other Offices. - The Commission shall have the power to create other offices and sub-offices, including regional or local offices, as it may deem necessary subject to existing rules and regulations.

SECTION 49. Implementing rules and regulations. - The Commission shall promulgate the implementing rules and regulations of this Act within one hundred twenty (120) days after their appointment.

SECTION 50. Joint Congressional Oversight Committee.-There is hereby created a Joint Congressional Oversight Committee to monitor the implementation of this Act. The Committee shall be composed of five (5) senators and five (5) representatives to be appointed by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee shall be co-chaired by a senator and a representative designated by the Senate President and the Speaker of the House of Representatives, respectively.

CHAPTER VIII

CREATION AND LOCALIZED MANAGEMENT OF AN ENVIRONMENTAL IMPACT ASSESSMENT ADMINISTRATION FUND

SECTION 51. Establishment of an Environmental Impact Assessment 10 Administration Fund. - There is hereby created a revolving fund to be known as the Environmental Impact Assessment Administration Fund or the "Fund" to cover administrative expenses and other program costs directly incurred in Environmental Impact Assessment review, assessment and monitoring. The *Fund*, which may be generated from various sources, shall entitle the donor or grantor thereof to corresponding exemption from income or gift taxes and all other related in1positious by proper government agencies. All income likewise generated from foes, fines and penalties directly related to the implementation of the Environmental Impact Assessment System shall accrue to the Fund may be utilized directly by the Commission for the above purposes: *Provided*, That the Commission shall provide the proper guidelines for the sourcing, utilization and proper accounting of the *Fund*. *Provided, further*, That all information regarding the *Fund*, including, but not limited to, its transactions and its status shall be accessible to the public at anytime observing the policy laid down in Section 46 of this Act.

SECTION 52. Localized management of Environmental Impact Assessment Administration Fund. - The Commission shall facilitate the creation of corresponding local structures and mechanisms for the localized sourcing and management of Environmental Impact Assessment Administration Fund.

The Commission, shall, in consultation and coordination with the Department of Interior and Local Government and the local government units, formulate the necessary guidelines to govern the localized sourcing and management of Environmental Impact Assessment Administration Fund.

SECTION 53. Appropriations. - The amount of one hundred million Philippine pesos (PhP100, 000,000.00) shall be appropriated for the initial implementation of this Act.

CHAPTER IX

FINAL PROVISIONS

SECTION 54. Separability Clause.-If any part, section or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in full force and effect.

SECTION 55. Repealing clause.- All laws, orders, circulars, rules and regulations, or any part thereof, which are inconsistent with the provisions of this Act, including those of Republic Act No. 8975 (An Act to Ensure the Expedited Implementation and Completion of Government Infrastructure Projects), are hereby amended or repealed accordingly. Presidential Decree No. 1121is hereby repealed.

SECTION 56. Effectivity. -This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,