



Republic of the Philippines
House of Representatives
Constitution Hills, Batasan Complex, Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 5784

Introduced by Representative **EDDIEBONG G. PLAZA**
2nd District, Agusan Del Sur

EXPLANATORY NOTE

This bill seeks to amend the *People's Small-Scale Mining Act of 1991 (PSSMA)*, otherwise known as RA 7076, to modernize and empower Small Scale Mining Industry and make it an engine of growth and development in the countryside, especially in the uplands and in the ancestral domain of the Indigenous Peoples where poverty is concentrated, and contribute in the overall development of the Philippine mining industry and the nation.

Since its inception almost three decades ago, RA 7076's intended goal of encouraging growth and productivity is nowhere to be seen. Ordinary people engaged in small-scale mining and communities hosting *Minahan ng Bayan* remained to be mired in poverty burdened by social and health problems and the environment suffer from unregulated, unscrupulous, illegal practices. In order to address this, the government issued EO 79 in 2012 followed by the Department of Environment and Natural Resources issuance of Department Administrative Order (DAO) No. 2015-03 both sought to impose stringent rules and requirements in the implementation of the PSSMA. Following these issuances the reported gold production of the Small-Scale Mining sector fell drastically and continues to fall to a negligible level come 2018.

From its reported production value of Php 32 Billion in 2007, it steadily rose to its highest reported production value in 2010 almost reaching Php 50 Billion. It declined in 2011 to less than Php 35 Billion in 2012 and to barely a billion pesos in 2018. No gold is going into government reserve, no revenue for the LGUs and the National Government. The people and their communities, the environment and the Government equally are suffering under the present set up provided by the current RA 7076 and its attendant order and rules.

From the foregoing, it is clear that RA 7076 need to be amended in order to capture the sentiments and aspirations of the Small-Scale Miners, realize the National Government desires and plans for the sector, and make the Local Government Units active partner in managing the small scale mining operations on the ground.

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



HON. EDDIEBONG G. PLAZA



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**AN ACT AMENDING REPUBLIC ACT 7076, OTHERWISE KNOWN AS THE
PEOPLE'S SMALL SCALE MINING ACT OF 1991**

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

Section 1. Title. – This Act shall be known as the "*People's Small-scale Mining Act of 1991*."

Section 2. Declaration of Policy. It is hereby declared of the State to promote, develop, protect and rationalize viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation's wealth and natural resources, giving due regard to existing rights as herein provided.

Section 3. Definitions. – For purposes of this Act, the following terms shall be defined as follows:

- (a) **"Artisanal Mining"** which refers to "**mining activities which heavily rely on manual labor using simple implements**" with a capitalization of not exceeding **10 million pesos**.
- (b) "Active mining area" refers to areas under actual exploration, development, exploitation or commercial production as determined by the Secretary after the necessary field investigation or verification including contiguous and geologically related areas belonging to the same claim owner and/or under contract with an operator, but in no case to exceed the maximum area allowed by law;
- (c) "Claim owner" refers to a holder of an existing mining right;

- (d) "Director" refers to the regional director of the Department of Mines and Geosciences Bureau.
- (e) "Existing mining right" refers to perfected and subsisting claim, lease, license or permit covering a mineralized area prior to its declaration as a people's small-scale mining area;
- (f) "License" refers to the privilege granted to a person to legitimately pursue his occupation as a small-scale miner or processor under this Act;
- (g) "Mineralized areas" refer to areas with naturally occurring mineral deposits of gold, silver, chromite, kaolin, silica, marble, gravel, clay and like mineral resources;
- (h) "Mining plan" refers to a **three-year** program of activities and methodologies employed in the extraction and production of minerals or ore-bearing materials, including the financial plan and other resources in support thereof. **The term is extendible to five-years;**
- (i) "Processor" refers to a person issued a license to engage in the treatment of minerals or ore-bearing materials such as by gravity concentration, leaching beneficiation, cyanidation, cutting, sizing, polishing and other similar activities;
- (j) Small-scale miners " refer to Filipino citizens who, individually or in the company of other Filipino citizens, voluntarily form a cooperative, partnership, corporation duly licensed by the Small-scale Mining Regulatory Board to engage, under the terms and conditions of a contract, in the extraction or removal of minerals or ore-bearing materials from the ground;
- (k) "Small scale mining" refers to mining activities which are undertaken by private individual or group of individuals, associations, cooperative, partnership, corporation which may include the use of explosive, light machineries and modern devices, with a capitalization of more than 10 million pesos but not exceeding 50 million pesos.
- (l) "Small-scale mining contract" refers to co-production, joint venture or mineral production sharing agreement between the State and a small-scale mining contractor for the small-scale utilization of a plot of mineral land;
- (m)"Small-scale mining contractor and **operator**" refers to an individual, or a cooperative of small-scale miners, **partnership and corporations** registered with the Securities and Exchange Commission or other appropriate government agency, which has entered into an agreement with the State for the small-scale utilization of a plot of mineral land within a people's small-scale mining area;
- (n) "Secretary" refers to the Secretary of the Department of Environment and Natural Resources.

Section 4. People's Small-scale Mining Program.- For the purpose of carrying out the declared policy provided in Section 2 hereof, there is hereby established a People's Small-scale Mining Program to be implemented by the Secretary of the Department of Environment and Natural Resources, hereinafter called the Department, in coordination with other concerned government agencies, designed to achieve an orderly, systematic and rational scheme for the small-scale

development and utilization of mineral resources in certain mineral areas in order to address the social, economic, technical, and environmental connected with small-scale mining activities.

The People's Small-scale Mining Program shall include the following features:

- (a) The identification, segregation and reservation of certain mineral lands as people's small-scale mining areas;
- (b) The recognition of prior existing rights and productivity;
- (c) The encouragement of the formation of cooperatives;
- (d) The extension of technical and financial assistance, and other social services;
- (e) The extension of assistance in processing and marketing;
- (f) The generation of ancillary livelihood activities;
- (g) The regulation of the small-scale mining industry with the view to encourage growth and productivity; and
- (h) The efficient collection of government revenue.

Section 5. Small-Scale Mining Regulatory Board. - There is hereby created under the direct supervision and control of the Secretary a Small-scale Mining Regulatory Board in every province/city herein called the Board, which shall be the implementing agency of the Department, and shall exercise the following powers and functions, subject to review by the Secretary:

- (a) Declare and segregate existing gold-rush areas for small-scale mining;
- (b) Reserve future gold and other mining areas for small-scale mining;
- (c) Award contracts to small-scale miners;
- (d) Formulate and implement rules and regulations related to small-scale mining;
- (e) Settle disputes, conflicts or litigations over conflicting claims within a people's small-scale mining area, an area that is declared a small-mining;
- (f) Perform such other functions as may be necessary to achieve the goals and objectives of this act.

Section 6. Composition of the Small-Scale Mining Regulatory Board. The Board shall be composed of the Department of Environment and Natural Resources representative as Chairman; and **the provincial governor or city mayor, or his representative**, as the case may be, one (1)

small scale mining representative, one (1) big-scale mining representative, **representative from the Indigenous Communities** and a representative from a nongovernment organization who shall come from an environmental group, as members.

Section 7. Declaration of People's Small-scale Mining Areas. The Board is hereby authorized to declare and set aside people's small-scale mining areas in sites suitable for small-scale mining, (subject to review by the Secretary) immediately giving priority to areas already occupied and actively mined by small scale miners before August 1, 1987: *Provided*, That such areas are not considered as active mining areas: *Provided, further*, That the minerals found therein are technically and commercially suitable for small-scale mining activities: *Provided, finally, that if the areas are covered by existing forest rights or reservations and have been declared as tourists or marine, parks and wildlife reservations, clearance or consent shall be obtained before such area is declared as people's small scale mining area.*

Section 8. Future People's Small-scale Mining Areas. – The following lands, when suitable for small-scale mining, may be declared by the Board as people's small scale mining areas:

- (a) Public lands not subject to any existing right;
- (b) Public lands covered by existing mining rights which are not active mining areas; and
- (c) Private lands, subject to certain rights and conditions, except those with substantial improvements or in bona fide and regular use as a yard, stockyard, garden, plant nursery, plantation, cemetery or burial site, or land situated within one hundred meters (100 m.) from such cemetery or burial site, water reservoir or a separate parcel of land with an area of ten thousand square meters (10,000 sq. m.) or less.

Section 9. Pangasiwaang Lokal ng Minahang Bayan (PLMB). It is hereby created a *Pangasiwaang Lokal ng Minahang Bayan* which shall "ground manage" the small-scale mining operations. It shall be headed by an administrator appointed by the provincial governor or the city mayor provided that he is a geologist, a mining engineer, or a graduate and/or a licensed practitioner of any related fields. It shall be composed of the following: the Research, Monitoring and Evaluation Officer (RMEO); IP Coordinator (IP Coord), Community Organizer (CO); Sanitary and Health Officer (SHO); Security and Safety Officer (SSO); and, the Administrative and Finance Officer (AFO).

Section 10. PLMB's General and Specific Tasks and/or Mandate. The *Pangasiwaang Lokal ng Minahang Bayan* is hereby mandated to perform general and specific tasks. It shall carry out the general tasks which are as follows:

1. Enforcement of rules and regulations as stipulated in RA 7076 (Sec. 13) as well the contract provisions of each SSM contractor on a day-to-day basis;
2. Formulate, implement and maintain consistent health and safety standards;
3. Maintain peace and order in the mining communities;
4. Provide administrative infrastructure for the formulation and implementation of an integrated poverty reduction program in communities surrounding the SSM area;

5. Adopt measures that promote environmental sustainability by providing intensive environmental management guidance within the *Minahang-Bayan*;
6. Protect the Indigenous Peoples (IPs) rights and promote their general welfare and preservation of their culture and tradition in Certificate of Ancestral Domain Title (CADT) areas hosting the *Minahang-Bayan*;
7. Petition for the declaration of an area for an *Minahang- Bayan*; and
8. Conduct exploration for small-scale mining operation.

It shall also be mandated to perform and execute the following specific functions:

1. Facilitation of licensing for Small-Scale miners;
2. Facilitation of easement rights off SSM contractor;
3. Facilitate voluntary and contractual agreement between SSM contractors and claim owners in case the declared PSSMA is covered by an existing mining rights;
4. Facilitate voluntary and contractual agreement between SSM contractors and Private landowners covered by PSSMA;
5. Administer and manage the operation of custom mills and assay laboratories;
6. Perform as holding agent for the national government's production share;
7. May serve as buying agent for Central Bank or facilitate buying transactions;
8. Facilitate the implementation of Government support in training and skills development in environmental management of small-scale miners and livelihood programs for mining communities;
9. Submit bi-annual report to Small-scale Mining Regulatory Board (SSMB).

Section 11. Funding Requirements. The City/Provincial Government shall provide initial financial assistance to the *Pangasiwaang Lokal ng Minahang Bayan* (PLMB) until it achieved self-sufficiency and sustainability. It shall derive its financial resources from the revenues generated and other fees collected in the Minahang Bayan.

Section 12. Small-scale Mining Exploration. Any bonafide residents in the concerned province, may requests clearance and assistance from the provincial government to explore and conduct a preliminary study on an area for feasibility of mining deposits within its jurisdiction provided that there is a prior submission of working plan setting out the activities to be conducted and the financial and technical resources of the applicant.

The exploration shall be conducted with the PLMB.

The said applicant may be required to pay compensation to the landowner if the activities causes damage to the property, deprives the owner of the land's beneficial use and restricts the right of way.

Section 13. No Prior Consent Required. No prior consent from the large scale miners is required upon application provided that the existence of both the large scale and small scale mining operations in an area is non-hazardous to the environment, the health and safety of all as determined by the Mines and Geosciences Bureau; *Provided, further, that*

the materials to be extracted are of different commodities; otherwise, he who acquires the prior right shall be given preference.

Section 14. Ancestral Lands. – No ancestral land may be declared as a people's small-scale mining area without the prior consent of the cultural communities concerned: *Provided, That*, if ancestral lands are declared as people's small-scale mining areas, the members of the cultural communities therein shall be given priority in the awarding of small-scale mining contracts, **provided, further, the Indigenous Cultural Communities (ICC) shall be entitled to a minimum of 1% of gross production by way of royalty.**

Section 15. Registration of Small-scale Miners. All persons undertaking small-scale mining activities shall register as miners with the Board and may organize themselves into cooperatives, **partnerships or corporation** in order to qualify for the awarding of a people's small-scale mining contract.

Section 16. Free, Prior Informed Consent (FPIC). **Any individual, associations, cooperatives, partnerships and corporations that possess a free prior informed consent (FPIC) to declare an area “Minahang-Bayan” shall be considered as a substantial compliance to the FPIC requirement for purposes of securing a small-scale mining contract.**

Any member-petitioner of the Indigenous Communities shall be exempted from securing a free, prior informed consent (FPIC) provided that the area is within its ancestral domain; provided, further that the traditional processes of the ICC has been complied with relative to the establishment of the “Minahang Bayan”

Section 17. Award of People's Small-scale Mining Contracts. A people's small-scale mining contract may be awarded by the Board to a **private individual**, or individuals who have voluntarily organized and have duly registered with the appropriate government agency as an individual miner or cooperative, **partnership or corporation**; *Provided, that*, only one (1) people's small-scale contract may be awarded at any one-time to a small-scale mining operator within one (1) year from the date of award; *Provided, further*, that priority shall be given to small-scale miners **who are bonafide residents in the province or city** where the small-scale mining area is located.

Applications for a contract shall be subject to a reasonable fee to be paid to the **local government units** having jurisdiction over the area.

Section 18. Extent of Contract Area. – The Board shall determine the reasonable size and shape of the contract area following the meridional block system established under Presidential Decree No. 463, as amended, otherwise known as the Mineral Resources Development Decree of 1974, but in no case shall the area exceed twenty hectares (20 has.) per contractor and the depth or length of the tunnel or adit not exceeding that recommended by the director taking into account the following circumstances:

- (a) Size of membership and capitalization of the cooperative, **partnership and corporation**;

- (b) Capitalization of the private individual;
- (c) Size of mineralized area;
- (c) Quantity of mineral deposits;
- (d) Safety of miners;
- (e) Environmental impact and other considerations; and
- (f) Other related circumstances.

Section 19. Artisanal Mining. Artisanal miners may be granted a (3) three year contract which can be extended to five (5) years and renewable for the like periods. They may be awarded areas appropriate for their activities taking into consideration their safety, the effect to the environment, among others.

Section 20. Copper As By-Product. Small-scale miners shall be allowed to dispose or sold the secondary or by-products of gold, if viable.

Section 21. *Easement Rights.* – Upon the declaration of a people's small-scale mining area, **the Board**, in consultation with the operator, claim owner, landowner or lessor of an affected area, shall determine the right of the small-scale miners to existing facilities such as mining and logging roads, private roads, port and communication facilities, processing plants which are necessary for the effective implementation of the People's Small-scale Mining Program, subject to payment of reasonable fees to the operator, claim owner, landowner or lessor.

Section 22. *Rights under a People's Small-scale Mining Contract.* – A people's small-scale mining contract entitles the small-scale mining contractor to the right to mine, extract and dispose of mineral ores for commercial purposes. In no case shall a small-scale mining contract be subcontracted, assigned or otherwise transferred.

Section 23. *Terms and Conditions of the Contract*– A contract shall have a term of **three (3) years, extendible to five (5) years** renewable for the like periods, subject to verification by the Board provided that the contractor complies with the provisions set forth in this Act, and confers upon the contractor the right to mine within the contract area: provided, that the holder of a small-scale mining contract shall have the following duties and obligations:

- (a) Undertake mining activities only in accordance with a mining plan duly approved by the Board;
- (b) Abide by the Mines and Geosciences Bureau and the small-scale Mining Safety Rules and Regulations;
- (c) Comply with his obligations to the holder of an existing mining right;

- (d) Pay all taxes, royalties or government production share as are now or may hereafter be provided by law;
- (e) Comply with pertinent rules and regulations on environmental protection and conservation, particularly those on tree-cutting, mineral-processing and pollution control;
- (f) File under oath at the end of each month a detailed production and financial report to the Board; and
- (g) Assume responsibility for the safety of persons working in the mines.

Section 24. Working Condition. The contractor-employers shall safeguard the health and safety of its employees/laborers and shall ensure that the terms and conditions of the employment contracts are in consonance with labor standards, rules and regulations.

The employees/laborers shall be covered by the Social Security System, Pag-ibig and all other social benefits under the existing laws.

Section 25. Rights of Claim owners. – In case a site declared and set aside as a people's-scale mining area is covered by an existing mining right, the claim owner and the small-scale miners therein are encouraged to enter into a voluntary and acceptable contractual agreement with respect to the small-scale utilization of the mineral values from the area under claim. In case of disagreement, the claim owner shall be entitled to the following rights and privileges:

- (a) Exemption from the performance of annual work obligations and payment of occupation fees, rental, and real property taxes;
- (b) Subject to the approval of the Board, free access to the contract area to conduct metallurgical tests, explorations and other activities, provided such activities do not unduly interfere with the operations of the small-scale miners; and
- (c) Royalty equivalent to one and one half percent (1 1/2%) of the gross value of the metallic mineral output or one percent (1%) of the gross value of the nonmetallic mineral output to be paid to the claim owner: provided, that such rights and privileges shall be available only if he is not delinquent and other performance of his annual work obligations and other requirements for the last two (2) years prior to the effectivity of this Act.

Section 26. Rights of Private Land owners. – The private landowner or lawful possessor shall be notified of any plan or petition to declare his land as a people's small-scale mining area. Said landowner may oppose such plan or petition in an appropriate proceeding and hearing conducted before the Board.

If a private land is declared as a people's small-scale mining area, the owner and the small-scale mining contractors are encouraged to enter into a voluntary and acceptable contractual agreement for the small-scale utilization of the mineral values from the private land: *Provided, that the owner shall in all cases be entitled to the payment of actual damages which he may suffer as a*

result of such declaration: *Provided, further,* that royalties paid to the owner shall in no case less than one percent (1%) of the gross value of the minerals recovered as royalty.

Section 27. Ownership of Milling. The small-scale mining contractor shall be the owner of all millings produced from the contract area. He may sell the tailings or have them processed in the PLMB custom mill in the area: provided, that, if the small-scale mining contractor decides to sell its millings, the claim owner shall have a pre-emptive right to purchase said millings at the prevailing market price. Mine tailings and mineral ores may be transported within the province or city without the need of permit, provided that the health and safety of the residents is not compromised.

Section 28. Sale of Gold. – Gold produced by small-scale miners in any mineral area shall be sold to the Central Bank, or its duly authorized representatives, which shall buy it at prices competitive with those prevailing in the world market regardless of volume or weight.

The Central Bank shall establish as many buying stations in gold-rush areas to fully service the requirements of the small-scale minerals thereat. **The PLMB with authorization from Central Bank may act as a buying station.**

Section 29. Downstream Development. Small-scale miners shall be allowed to utilize twenty percent (20%) of the gold produced for downstream development activities such as, but not limited to jewelry-making, ornament-crafting, provided that the same is used by the miners, its house-holds, and/or the communities where the small-scale mining operation is situated.

Section 30. Custom Mills. – The establishment and operation of safe and efficient customs mills to process minerals or ore-bearing materials shall be limited to mineral processing zones duly designated by the local government unit concerned upon recommendation of the Board.

The government shall construct custom mills upon the recommendation of the board based on the viability of the project.

The PLMB shall secure license from the Board to operate and manage custom mills and assay laboratories to service the *Minahan ng Bayan*. The PLMB shall also be constituted as the withholding agents for the royalties, production share or other taxes due to the government.

Section 31. Temporary Small-scale Mining Permit. – The provincial governor or the city mayor, as the case may be, may issue temporary small scale mining permit to individual, association or cooperative, partnership for a non-renewable period of six (6) months while their contract is on-process, subject to the terms and conditions and payment of the appropriate fees.

Section 32 . Laddered Development Scheme. The Department, in coordination with the local government units, is hereby directed to devise a mechanism, system and a monitoring scheme to check and validate the annual production of the small-scale mining operations.

In case the annual production exceeds 100,000 dry metric tons, the concerned small-scale mining operations shall be entitled to the rights and obligations of a large scale mining companies in accordance with the existing law, rules and regulations.

Section 33. People's Small-scale Mining Protection Fund. – There is hereby created a People's Small-scale Mining Protection Fund which shall be twenty percent (20%) of the national government's share due the Government which shall be used primarily for the benefit of the small-scale miners and the communities where the mining operations are situated. Fifteen percent (15%) of the funds shall be used in information dissemination and training of small-scale miners on safety, health and environmental protection, and the establishment of mine rescue and recovery teams including the procurement of rescue equipment necessary in cases of emergencies such as landslides, tunnel collapse, or the like.

The fund shall also be made available to address the needs of the small-scale miners brought about by accidents and/or fortuitous events.

Five (5%) percent of the fund shall be allocated to assist the downstream activities of the communities where the small-scale operations are located.

The funds shall be managed by the PLMB for the planning and implementation of its social and environmental programs. Such fund shall be subjected to existing auditing rules and regulations.

Section 34. Small-scale Mining Compensation Fund.- All small-scale miners actively engaged in small scale mining activity and all its processes shall contribute to a compensation fund to be maintained by the Pangasiwaang Lokal ng Minahang Bayan (PLMB) to be used to compensate damages to areas affected by the operation of small-scale mining activities.

Section 35. Government Share and Allotment. – The revenue to be derived by the Government from the operation of the mining program herein established shall be subject to the sharing provided in the Local Government Code.

Section 36. Rescission of Contracts and Administrative Fines. – The noncompliance with the terms and conditions of the contract or violation of the rules and regulations issued by the Secretary pursuant to this Act, as well as the abandonment of the mining site by the contractor, shall constitute a ground for the cancellation of the contracts and the ejectment from the people's small-scale mining area of the contractor. In addition, the Secretary may impose fines against the violator in an amount of not less than twenty thousand pesos and not more one hundred thousand pesos (P100, 000.00). Non-payment of the fine imposed shall render the small-scale mining contractor ineligible for other small-scale mining contracts.

Section 37. Reversion of People's Small-scale Mining Areas. The Secretary, upon recommendation of the Board, shall withdraw the status of the people's small-scale mining area when it can no longer be feasibly operated on a small-scale mining basis or when the safety, health and environmental conditions warrant that the same shall revert to the State for proper disposition.

Section 38. *Actual Occupation by Small-scale Miners.* – Small-scale miners who have been in actual operation of mineral lands on or before August 1, 1987 as determined by the Board shall not be dispossessed, ejected or removed from said areas: provided, that they comply with the provisions of this Act.

Section 39. *Administrative Supervision over People's Small-Scale Mining Program.* The BOARD, shall exercise direct supervision and control over the program and activities of the small-scale miners within the people's small-scale mining area.

Section 40. *Penal Sanctions.* –Violations of the provisions of this Act or of the rules and regulations issued pursuant hereto shall be penalized with imprisonment of not less than three (3) months but not more than (1) year and shall include the confiscation and seizure of equipment, tools, and instruments.

Section 41. *Repealing Clause.* –All laws, decrees, letters of instructions, executive orders, rules and regulations, and other issuances, or parts, thereof, in conflict or inconsistent with this Act are hereby repealed or modified accordingly.

Section 42. *Separability Clause.* –Any section or provision of this Act which may be declared unconstitutional shall not affect the other sections or provisions hereof.

Section 43. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a national newspaper of general circulation.