

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

253

HOUSE BILL No. _____



Introduced by
**BAYAN MUNA Party-List Representatives EUFEMIA C. CULLAMAT
CARLOS ISAGANI T. ZARATE and FERDINAND R. GAITE,
ACT TEACHERS Party-List Representative FRANCE L. CASTRO,
GABRIELA Women's Party Representative ARLENE D. BROSAS and
KABATAAN Party-List Representative SARAH JANE I. ELAGO**

**AN ACT
DECLARING AS CLOSED TO MINING APPLICATIONS
THOSE AREAS DECLARED BY LOCAL GOVERNMENT UNITS AS NO MINING
ZONES, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7942 OTHERWISE
KNOWN AS THE PHILIPPINE MINING ACT OF 1995, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

This Bill seeks to close areas declared by local government units (LGUs) as No-Mining Zones from mining applications and operations, amending for the purpose the Philippine Mining Act of 1995.

While large-scale mining contributes to the country's gross domestic product, there is a growing resistance to the operations of these companies, even in areas where they operate. Local governments from different areas like Davao, Capiz, Marinduque, Palawan, Romblon, Negros Occidental, Eastern Samar, and South Cotabato have passed ordinances declaring a ban on mining operations and/or a moratorium on applications.

Host communities are the ones directly affected by mining operations and therefore have the right to be heard. Thus, the national government should respect and recognize the prerogative of local government units to declare areas under their respective jurisdictions as no mining zones through the enactment of local ordinances. This is in keeping with the country's laws and in

recognition of the LGUs' role to protect and preserve the environment and the people's welfare.

In a 1997 case decided by the Supreme Court (*Tano vs. Socrates* G.R. No. 220249, August 21, 1997), the Supreme Court sustained the local ordinance passed by Puerto Princesa City, which banned the export of live fish from Puerto Princesa to curtail the practice of cyanide fishing, holding that "the Local Government Code provisions invoked by private respondents (Puerto Princesa City) merely seek to give flesh and blood to the right of the people to a balanced and healthful ecology. In fact, the General Welfare Clause expressly mentions this right:

SEC. 16. *General Welfare.* Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants."

LGUs all over the country will become more empowered and responsible to their constituents. By recognizing their role in the protection and preservation of the environment and the country's natural resources for the present and the future generations, the people will participate more in the decision-making processes of the state.

Being an extractive industry, mining poses great threats to our fragile environment. Local government units must be given the right to chart the destiny of their environment. This bill seeks to do that by including among the areas closed for mining applications areas declared by local government units as no-mining zones.

The bill likewise prohibits mining in prime agricultural lands as well as areas containing cultural properties.

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

Approved,


REP. EUFEMIA C. CULLAMAT
BAYAN MUNA Partylist


REP. FERDINAND R. GAITE
BAYAN MUNA Partylist


REP. CARLOS ISAGANI T. ZARATE
BAYAN MUNA Partylist


REP. FRANCE L. CASTRO
ACT TEACHERS Party-List


REP. ARLENE D. BROSAS
GABRIELA Women's Party


REP. SARAH JANE I. ELAGO
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Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled

Section 1. Declaration of Policy. It is hereby a declared policy of the State to ensure that the power of local government units, consistent with its mandate under the general welfare clause of the Local Government Code, to enact ordinances enhancing the right of the people to a balanced ecology, is upheld at all times.

Pursuant to this, the right of local government units to exempt areas under their jurisdiction from mining operations or applications is likewise sustained.

Section 2. Section 19, Chapter III of Republic Act No. 7942 otherwise known as the Philippine, Mining Act of 1995 is hereby amended to read as follows:

"SEC. 19. Areas Closed to Mining Applications. -- Mineral agreements, including financial and technical assistance agreements shall not be allowed in:

a) military and other government reservations, except upon prior written clearance by the government agency concerned;

b) Near or under public or private buildings, cemeteries, archeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works including plantations or valuable crops, except upon written consent of the government agency and the private entity concerned;

c) In areas covered by valid and existing mining rights;

d.) In areas expressly prohibited by law;

E.) IN AREAS DECLARED BY LOCAL GOVERNMENT UNITS AS NO-MINING ZONES;

F.) IN PRIME AGRICULTURAL LANDS, IRRIGABLE AND IRRIGATED LANDS AS DEFINED BY REPUBLIC ACT 9700;

G.) IN AREAS WHEREIN THERE ARE CULTURAL PROPERTY AS ENUMERATED UNDER REPUBLIC ACT 10066;

h.) In areas covered by small-scale miners as defined by law unless with prior consent of the small-scale miners, in which case a royalty payment upon the utilization of minerals shall be agreed upon by the parties, said royalty forming a trust fund for the socioeconomic development of the community concerned;

and

i) Old growth or virgin forests proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries as defined by law in areas expressly prohibited under the National Integrated Protected Areas System (NIPAS) under Republic Act No. 7586. Department Administrative Order No. 25, series of 1992 and other laws.”

Section 3. *Separability Clause.* If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

Section 4. *Repealing Clause.* Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

Section 5. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,