Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 8089

Introduced by HON. LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

AN ACT
REQUIRING MANDATORY ENVIRONMENT INSURANCE COVERAGE TO
PROMOTE ECOLOGICAL PROTECTION

There have been a number of manmade disasters that have been attributed to businesses ignoring the effects of their acts. Instances such as the 1996 Marcopper Mining tragedy, which led to the biological death of the Boac and Makalupnit rivers, and the destruction of hectares of farmlands that displaced families or the 2005 and 2007 massive fish kills caused by a cyanide spill from the operations of Lafayette Philippines, Inc. These operations have provided an honest living for the people in the area but have left only misfortune and mishap on the environment.

Operations to mitigate and rehabilitate the unforeseen damages to the ecosystem and its constituents need funds. However, the lack of an institutionalized financial assistance from the institutions and corporations that caused these damages greatly stunts the rehabilitation of the elements affected.

There is a need for financial compensation from environmentally-critical businesses in order to prevent these disasters from happening and to be able to readily provide for rehabilitation in case repercussions are inevitable. The goal is to be able to handle the damage that unanticipated and unforeseen natural disasters make and to compensate for losses to the environment through the insurance coverage. The Philippines is already considered as the most disaster-prone region in Southeast Asia. The creation of business entails the use of natural resources such as land and water. Given that, an ecosystem is greatly affected as its natural resources is used and manipulated for the interest of the business. With the country already being a disaster-prone region, the need becomes greater in making sure businesses provide insurance for possible environmental damages that may occur in the course of them doing their business.
With businesses being created for the intended purpose of profit and economic development for the area, the environmental degradation that comes with this is an unfortunate side effect. It is considered as a "negative externality", which are unintended and indirect negative effects of economic activities on other producers and consumers. This could prompt owners to forego the importance of the social costs that they impose on the other constituents of the area.

The Philippines must hold accountable the institutions and corporations that pose risks to the environment, the ecosystem and their constituents. This bill seeks to institutionalize an insurance plan given to corporations of a certain nature, in coordination with the DENR, to ensure that possible damages to the environment are well covered for. Every time an environmentally-critical business moves forward with a project, they must avail of a Mandatory Environmental Insurance Coverage (MEIC) as insurance for unforeseen damage towards the environment. The said insurance will be used to guarantee sufficient funding coverage for the needed restoration and rehabilitation of a damaged ecosystem and all of its constituents caused by the said businesses.

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

LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.
AN ACT
REQUIRING MANDATORY ENVIRONMENT INSURANCE COVERAGE TO
PROMOTE ECOLOGICAL PROTECTION

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

SECTION 1. Mandatory Environment Insurance Coverage. — All owners and operators of environmentally-critical businesses shall be required to secure a Mandatory Environmental Insurance Coverage (MEIC) to compensate for damages to health and property, environmental rehabilitation, remediation and clean-up costs and expenses as a result of environmental impairment arising from their operations.

For purposes of this Act, environmentally-critical businesses refer (but not limited) to:

a. Energy companies
b. Food processing companies
c. Large scale fishing companies
do. Oil companies

SECTION 2. Forms of Mandatory Environment Insurance Coverage. — The MEIC shall be obtained only from bonding or insurance companies duly accredited by the Department of Environment and Natural Resources (DENR) in the following forms:
a) Environmental Performance Bond – which shall be required for all ongoing activities or projects and applications for Environmental Compliance Certificate or Certificate of Non-coverage to guarantee adequate and timely compliance with the environmental standards and the terms and conditions set forth by the DENR during the pre-development, development and construction phases of the project. The Environmental Performance Bond shall answer for all environmental damages, penalties and legal obligations which may arise from the failure of the project proponent to comply with its undertakings during the aforementioned phases; and

b) Environmental Pollution, Impairment and Clean-Up Liability Insurance – which shall be required for all existing and future activities or projects to cover operational phases, including those that have been issued an Environmental Compliance Certificate or Certificate of Non-coverage. The Environmental Pollution, Impairment and Clean-Up Liability Insurance shall answer for all claims arising from damages to the environmental rehabilitation, clean-up or remediation costs and expenses for contamination or impairment of the environment.

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

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

SECTION 4. Environmental Risk Inspector. – During the insurance coverage period, an environmental risk inspector from the DENR shall conduct quarterly, bi-annual visit to the business firm’s project to evaluate and recommend measures to prevent environmental disasters.

SECTION 5. Beneficiaries. – The beneficiaries of the MEIC include affected communities, stakeholders and local government unites within the project’s primary impact areas. Beneficiaries also include government departments, bureaus, and agencies which are tasked under the law to undertake the rehabilitations, clean-up and monitoring of the projects affected by the pollution event for which no responsible private or public entity is specified.
The beneficiaries shall be represented by the government, particularly the DENR, which shall identify the affected areas and prescribe rehabilitation or remediation measures.

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

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

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

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

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

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

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

Government officials, employees, and agents who shall approve the issuance of certificates to owners or operators of environmentally-critical businesses without the necessary MEIC, in violation of this Act, shall suffer the penalty of suspension of not less than thirty (30) days but not more than six (6) months after due notice and hearing in the appropriate administrative proceedings.
SECTION 8. *Implementing Rules and Regulations.* – Within sixty (60) days from the approval of this Act, the Secretary of Environment and Natural Resources shall, in coordination with the Commissioner of the Insurance Commission, promulgate the necessary rules and regulations for the effective implementation of this Act.

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

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

Approved,