Committee Report No. 928

Submitted by the Committee on Ecology on May 4, 2021.
Re: House Bill No. 9300

Recommending its approval in substitution of House Bills Numbered 144 and 8089.


Mr. Speaker:

The Committee on Ecology to which were referred House Bill No. 144, introduced by Rep. Rodante D. Marcoleta, entitled:

“AN ACT
PROVIDING FOR THE ESTABLISHMENT OF A NATIONAL FRAMEWORK FOR MANDATORY ENVIRONMENTAL INSURANCE COVERAGE FOR CERTAIN ENVIRONMENTALLY CRITICAL PROJECTS”; and,

House Bill No. 8089, introduced by Rep. Luis Raymund “LRay” F. Villafuerte, Jr., entitled:

“AN ACT
REQUIRING MANDATORY ENVIRONMENT INSURANCE COVERAGE TO PROMOTE ECOLOGICAL PROTECTION”

has considered the same and recommends that the attached House Bill No. 9300, entitled:

AN ACT
ESTABLISHING A NATIONAL FRAMEWORK FOR THE MANDATORY ENVIRONMENTAL INSURANCE COVERAGE OF ENVIRONMENTALLY CRITICAL PROJECTS

be approved, in substitution of House Bills Numbered 144 and 8089, with Reps. Rodante D. Marcoleta, Luis Raymund “LRay” F. Villafuerte, Jr., Glona G. Labadlabad, Estrellita B. Suansing, and Jose Antonio “Kuya” R. Sy-Alvarado as authors thereof.
Respectfully submitted,

REP. GLONA G. LABADLABAD
Chairperson
Committee on Ecology

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY
Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City  

EIGHTEENTH CONGRESS  
Second Regular Session  

HOUSE BILL No. 9300  

AN ACT  
ESTABLISHING A NATIONAL FRAMEWORK FOR THE MANDATORY  
ENVIRONMENTAL INSURANCE COVERAGE OF ENVIRONMENTALLY  
CRITICAL PROJECTS  

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

SECTION 1. Title. – This Act shall be known as the “Mandatory Environmental Insurance Coverage Act”.  

SEC. 2. Definition of Terms. - As used in this Act:  

(a) Environmentally Critical Project refers to a project that has high potential for significant negative environmental impact and is listed as such under Presidential Proclamation (P.P.) No. 2146, series of 1981, and P.P. No. 803, series of 1996, as well as other projects which the President may proclaim as environmentally critical in accordance with Section 4 of P.D. 1586 or the Philippine Environmental Impact Statement System;  

(b) Heavy industries refer to non-ferrous metal industries, iron and steel mills, petroleum, and petrochemical industries, including oil and gas smelting plants;  

(c) Infrastructure projects refer to major dams, major power plants, major reclamation projects, and major roads and bridges; and,  

(d) Resource Extractive Industries refer to major mining and quarrying projects; forestry projects involving logging, major wood processing projects, introduction of fauna or exotic animals in public or private forests, forest occupancy, extraction of mangrove products, and grazing; and fishery projects, specifically fishpond development projects and dikes for such projects.
SEC. 3. Establishment of a National Framework for Mandatory Environmental Insurance Coverage. - Within one (1) year following the effectivity of this Act, a national framework for Mandatory Environmental Insurance Coverage (MEIC) shall be established. The framework shall consider the following:

a) **Coverage.** All owners and operators of environmentally critical projects (ECPs) shall be required to secure MEIC for ECPs as prescribed under this Section, to compensate for the adverse environmental consequences which include damage to health and property, and costs for environmental rehabilitation, remediation, cleanup, and other environmental impairments arising from their operations. For purposes of this Act, ECPs shall include heavy industries, major manufacturing industries, major resource-extractive industries, major infrastructure projects, and other similar projects that could pose serious risks to people and the environment.

b) **Forms of MEIC.** - The MEIC shall be in the form of:

1. Environmental guarantee cash fund established pursuant to existing environmental laws; or

2. Environmental insurance policy (EIP) obtained from bonding or insurance companies, whenever the environmental guarantee cash fund is insufficient to cover the said adverse environmental consequences, upon determination and recommendation of the Inter-Agency Technical Committee created pursuant to Section 5 of this Act.

The EIP may take the form of the following:

i. Environment performance bond (EPB) – which shall be required for all ongoing activities or projects issued with Environmental Compliance Certificate (ECC) pursuant to P.D. 1586, to guarantee adequate and timely compliance with the environmental standards and the terms and conditions set forth by the Department of Environment and Natural Resources (DENR) during the pre-development, development, and construction phases of the project. The EPB 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

ii. Environment pollution, impairment, and cleanup liability insurance (EPICLI) – which shall be required for all existing and future activities or projects issued with ECC pursuant to P.D. 1586, to cover the operational phases. The EPICLI shall answer for all claims arising from damages to the environment; bodily injury and property damage arising from a pollution event; and for the cost of environmental rehabilitation,
cleanup, or remediation responses to address the contamination or impairment of the environment.

SEC. 4. Pre-requisite To The Construction Or Operational Phase. – Owners and operators of ECPs shall not be allowed to commence construction or commercial operation without initially obtaining the MEIC required under Section 3 of this Act.

SEC. 5. Creation of an Inter-Agency Technical Committee. – Within one (1) year following the effectivity of this Act, the Secretary of the DENR shall establish and chair an Inter-Agency Committee (IATC), with the Commissioner of the Insurance Commission and representatives of the insurance industry, the mining industry, and other stakeholders that the DENR may deem fit, as members. Within the same period, the IATC shall:

a) Identify the perils or possible negative environmental impacts, activities, processes or undertakings that need to be mandatorily insured as provided in Section 3 hereof;
b) Conduct risk assessment to determine the appropriate insurance coverage for different ECPs and activities;
c) Formulate guidelines for the identification of primary impact areas and prescription of rehabilitation or remediation measures in cases of environmental damages;
d) Formulate cleanup guidelines;
e) Formulate guidelines for the identification of beneficiaries of the MEIC;
f) Ensure that the premium rates of the EIP are commensurate to the risks covered;
g) Formulate guidelines for the determination of veracity of claims;
h) Accredit insurance companies; and
i) Undertake such activities as may be necessary to fulfill the objectives of this Act.

For purposes of paragraph (h) of this Section, the Insurance Commission, in coordination with the DENR, shall formulate guidelines for the accreditation of insurance companies, within one (1) year following the effectivity of this Act.

SEC. 6. Beneficiaries. – The beneficiaries of the MEIC include affected communities, stakeholders, and local government units within the projects’ primary impact areas. Also included as beneficiaries are government departments, bureaus, and agencies which are tasked under the law to undertake the rehabilitation, cleanup, and monitoring of sites affected by the pollution or insurable event, for which no responsible private or public entity is specified.

The beneficiaries shall be represented by the government, particularly the DENR. The IATC shall identify the affected areas and prescribe rehabilitation or remediation measures pursuant to Sec. 5 of this Act.
SEC. 7. 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 the corresponding payment to beneficiaries, upon advice of the DENR and with proper documentation.

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

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

The government agency tasked with rehabilitation and assigned as the beneficiary of the MEIC as provided under Section 6 of this Act, shall undertake the same utilizing funds coming from the insurance claim upon approval of the DENR.

SEC. 8. Penalties. – The failure of the owner and operator of an ECP to secure an MEIC as prescribed under Section 3 hereof, or of the insurance company to pay a verified claim in violation of the provisions of this Act and within reasonable time, shall be punished with a fine of Five hundred thousand pesos (₱500,000.00) but not more than Two million pesos (₱2,000,000.00) 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, after the service of sentence, be deported immediately without further proceedings by the Bureau of Immigration.

Government officials, employees, and agents who approve the construction or operation of environmentally-critical projects without the necessary MEIC, in violation of the provisions of this Act, shall suffer the penalty of suspension of not less than thirty (30) days, but not more than six (6) months after due notice and hearing in the appropriate administrative proceedings.

SEC. 9. Implementing Rules and Regulations. – Within sixty (60) days from the approval of this Act, the DENR shall, in coordination with the Insurance Commission, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 10. Repealing Clause. – All laws, decrees, orders, rules, and regulations, and other issuances inconsistent with the provisions of this Act are repealed, amended, or modified accordingly.
SEC. 11. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

APPROVED.
House of Representatives  
Committee Affairs Department  

FACT SHEET  

House Bill No. 9300  

*In substitution of House Bills Numbered 144 and 8089*  

AN ACT  

ESTABLISHING A NATIONAL FRAMEWORK FOR THE MANDATORY ENVIRONMENTAL INSURANCE COVERAGE OF ENVIRONMENTALLY CRITICAL PROJECTS  

*Introduced by:* Representatives Rodante D. Marcoleta and Luis Raymund “LRay” F. Villafuerte, Jr.  

Committee Referral: Committee on Ecology  

OBJECTIVE:  

- To ensure that the environmental damage wrought by environmentally-critical projects is reversed as speedily as possible, and entities that bear the brunt of such damage are properly compensated  

KEY PROVISIONS:  

- Establishes a national framework for Mandatory Environmental Insurance Coverage (MEIC) that will compensate for adverse environmental consequences arising from the operation of environmentally critical projects (ECP);  

- Describes as adverse environmental consequences damage to health and property, and costs for environmental rehabilitation, remediation, cleanup, and other environmental impairments arising from ECP operations;  

- Includes among ECPs which need to be insured: heavy industries, major manufacturing industries, major resource-extractive industries, major infrastructure projects, and other similar projects that could pose serious risks to people and the environment;  

- Requires owners and operators to secure an MEIC, prior to construction or commercial operation of their ECPs;  

- Provides for the two (2) forms of MEIC, namely: the environmental guarantee cash fund established pursuant to existing environmental
laws, or the supplementary environmental insurance policy (EIP) that may be obtained from bonding or insurance companies;

- Prescribes the two (2) forms of EIP that may be availed of: the environment performance bond (EPB) for the pre-development, development, and construction phases of ongoing ECPs; and the environment pollution, impairment, and cleanup liability insurance (EPICLI) for the operational phases of existing and future ECPs;

- Creates an Inter-Agency Technical Committee chaired by the Secretary of the Department of Environment and Natural Resources; and with the Commissioner of the Insurance Commission, representatives of the insurance industry, the mining industry, and other stakeholders as members, to formulate guidelines and undertake functions necessary to fulfill the objectives of this Act;

- Includes as MEIC beneficiaries the affected communities, stakeholders, local government units, and government entities tasked under the law to undertake the rehabilitation, cleanup, and monitoring of sites affected by the pollution or insurable event;

- Provides procedures on the payment of claims to ensure that funds are available and accessible, claims are verified, rightful parties are compensated, and the environment is properly rehabilitated, cleaned up, remediated, stabilized, and protected;

- Sets penalties for the 1) non-compliance with the MEIC requirement for ECPs, 2) approval by government agents of the construction or operation of an ECP without the necessary MEIC, and 3) non-payment by insurance companies of a verified claim within a reasonable period of time; and,

- Mandates the DENR, in coordination with the Insurance Commission, to promulgate the necessary rules and regulations for the effective implementation of this Act.

RELATED LAWS:

- PD 1586 – Environmental Impact Statement System