

Republic Act No. 7176

An Act Creating a People's Small-Scale Mining Program and for Other Purposes

Be it enacted by the Senate and House of Representatives in 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 the policy of the State to promote, develop 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) **Mineralized areas** refers to areas with naturally occurring mineral deposits of gold, silver, chromite, kaolin, silica, marble, gravel, clay and like mineral resources;
- (b) **Small-scale mining** refers to mining activities which rely heavily on manual labor using simple implements and methods and do not use explosives or heavy mining equipment;
- (c) **Small-scale miners** refers to Filipino citizens who, individually or in the company of other Filipino citizens, voluntarily from a cooperative duly licensed by the Department of Environment and Natural Resources to engage, under the terms and conditions of a contract, in the extraction or removal of minerals or ore-bearing materials from the ground;
- (d) **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;
- (e) **Small-scale mining contractor** refers to an individual or a cooperative of small-scale miners, 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;

- (f) **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 claimowner and/or under contract with an operator, but in no case to exceed the maximum area allowed by law;
- (g) **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;
- (h) **Claimowner** refers to a holder of an existing mining right;
- (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) **License** refers to the privilege granted to a person to legitimately pursue his occupation as a small-scale miner or processor under this Act;
- (k) **Mining plan** refers to a two-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;
- (l) **Director** refers to the Regional Executive Director of the Department of Environment and Natural Resources; and
- (m) **Secretary** refers to the Secretary 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 problems 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 production; and
- (h) The efficient collection of government revenue.

Section 5. 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 onshore 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 the areas are not covered by existing forest rights or reservations and have not been declared as tourist or marine reserves, parks and wildlife reservations, unless their status as such is withdrawn by competent authority.

Section 6. 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 inactive 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 7. 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 the 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.

Section 8. 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 in order to qualify for the awarding of a people's small-scale mining contract.

Section 9. Award of People's Small-scale Mining Contracts. - A people's small-scale mining contract may be awarded by the Board to small-scale miners who have voluntarily organized and have duly registered with the appropriate government agency as an individual miner or cooperative; **Provided, That** only one (1) people's small-scale mining contract may be awarded at any one time to a small-scale mining contractor who shall start mining operations within one (1) year from the date of award; **Provided, further,** That the priority shall be given to small-scale miners residing 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 Department of Environment and Natural resources regional office having jurisdiction over the area.

Section 10. 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;
- (b) 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 11. Easement Rights. - Upon the declaration of a people's small-scale mining area, the director, in consultation with the operator, claimowner,

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 for the effective implementation of the People's Small-scale Mining Program, subject to payment of reasonable fees to the operator, claimowner, landowner or lessor.

Section 12. 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 13. Terms and Conditions of the Contract. - A contract shall have a term of two (2) years, renewable subject to verification by the Board for like periods as long as 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 and 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 14. Rights of Claimowners. - In case a site declared and set aside as a people's small-scale mining area is covered by an existing mining right, the claimowner 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 claimowner shall be entitled to the following rights and privileges:

- (a) Exemption from the performance of annual work obligations and payment of occupational 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 duly 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 claimowner; **Provided**, That such rights and privileges shall be available only if he is not delinquent in the performance of his annual work obligations and other requirements for the last two (2) years prior to the effectivity of this Act.

Section 15. Rights of Private Landowners. - 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 a 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 exceed one percent (1%) of the gross value of the minerals recovered as royalty.

Section 16. Ownership of Mill Tailings. - The small-scale mining contractor shall be the owner of all mill tailings produced from the contract area. He may sell the tailings or have them processed in any custom mill in the area; **Provided**, That, if the small-scale mining contractor decides to sell its mill tailings, the claimowner shall have a preemptive right to purchase said mill tailings at the prevailing market price.

Section 17. Sale of Gold. - All 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 small-scale miners thereat.

Section 18. Custom Mills. - The establishment and operation of safe and efficient custom mills to process minerals and ore-bearing materials shall be limited to mineral processing zones duly recognized by the local government unit concerned upon recommendation of the Board.

In mining areas where the private sector is unable to establish custom mills, the Government shall construct such custom mills upon the recommendation of the Board based on the viability of the project.

The Board shall issue licenses for the operation of custom mills and other processing plants subject to pollution control and safety standards.

The Department shall establish assay laboratories to cross-check the integrity of custom mills and to render metallurgical and laboratory services to miners.

Section 19. 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 20. People's Small-scale Mining Protection Fund. - There is hereby created a People's Small-scale Mining Protection Fund which shall be fifteen percent (15%) of the national government's share of the internal revenue tax or production share due the Government which shall be used primarily for 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.

Section 21. 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 ejection 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 (P20,000.00) and not more than One hundred thousand

pesos (P100,000.00). Nonpayment of the fine imposed shall render the small-scale mining contractor ineligible for other small-scale mining contracts.

Section 22. Reversion of People's Small-scale Mining Areas. - The Secretary, upon recommendation of the director, 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 23. Actual Occupation by Small-scale Miners. - Small-scale miners who have been in actual occupation 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 24. Provincial/City Mining Regulatory Board. - There is hereby created under the supervision and control of the Secretary a provincial/city mining regulatory board, 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 area; and
- (f) Perform other functions as may be necessary to achieve the goals and objectives of this Act.

Section 25. Composition of the Provincial/City Mining Regulatory Board. - The Board shall be composed of the Department of Environment and Natural Resources' representative as Chairman; and the representative of the governor or city mayor, as the case may be, one (1) small-scale mining representative, one (1) big-scale mining representative, and the representative from a nongovernmental organization who shall come from an environmental group, as members.

The representatives from the private sector shall be nominated by their respective organizations and appointed by the Department regional director. The Department shall provide the staff support to the Board.

Section 26. Administrative Supervision over the People's Small-scale Mining Program. - The Secretary through his representative shall exercise direct supervision and control over the program and activities of the small-scale miners within the people's small-scale mining area.

The Secretary shall within ninety (90) days from the effectivity of this Act promulgate rules and regulations to effectively implement the provisions of the same. Priority shall be given to such rules and regulations that will ensure the least disruption in the operations of the small-scale miners.

Section 27. 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 six (6) months nor more than six (6) years and shall include the confiscation and seizure of equipment, tools and instruments.

Section 28. Repealing Clause. - All laws, decrees, letters of instruction, 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 29. Separability Clause. - Any section or provision of this Act which shall be declared unconstitutional shall not affect the other sections or provisions hereof.

Section 30. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a national newspaper of general circulation.

Approved,

JOVITO R. SALONGA
President of the Senate

RAMON V. MITRA
*Speaker of the House
of Representatives*

This Act which is a consolidation of House Bill No. 10516 and Senate Bill No. 1333 was finally passed by the House of Representatives and the Senate on May 30, 1991.

EDWIN P. ACOBA
Secretary of the Senate

CAMILO L. SABIO
*Secretary General
House of Representatives*

Approved: June 27, 1991.

CORAZON C. AQUINO
President of the Philippines