

[REPUBLIC ACT NO. 6364, August 05, 1971]

AN ACT AMENDING REPUBLIC ACT NUMBERED THIRTY HUNDRED EIGHTY-NINE, AS AMENDED, ENTITLED "AN ACT TO PROVIDE FOR ASSISTANCE TO THE GOLD MINING INDUSTRY."

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

SECTION 1. Sections two, four, five and six of Republic Act Numbered Thirty hundred and eighty-nine, as amended, are hereby further amended to read as follows:

"SEC. 2. *Definition of terms.*— When used in this Act the following terms shall, unless the context otherwise indicates, have the following respective meanings:

- a. Gold producer' means any person, corporation, partnership or association, incorporated, organized and existing under Philippine laws, at least seventy percent of the capital of which is owned and held by Philippine citizens, which produces gold as a principal product by itself or through an operating agreement, on the date of the effectivity of this Act: *Provided, however* , That an existing Sold producer at least seventy percent of the capital of which is not owned and held by Philippine citizens in order to qualify for assistance under this Act, (a) must present evidence to the Board, within six months from the effective date of this Act, that it is exerting efforts to comply with this requirement; (b) in no case must less than thirty-five percent of its capital be owned and held by Philippine citizens at the end of the second year after effectivity of this Act; and (c) must have seventy percent Filipino capital by the end of the third year the effective date of this Act.
- b. 'Government' means the Government of the public of the Philippines;
- c. 'Board' means the Gold Mining - Industry Assistance Board created to carry out the provisions of this Act;
- d. 'Cost of production' of bullion from a mine means the cost incurred by the producer and properly attributable to the production of bullion under standardized procedure to be adopted by the Board and includes mining milling, smelting, refining, production tax, transportation, administrative costs attributable to the production of bullion, depreciation and depletion as provided under Section 30 (g) (1) (b) (1) of Commonwealth Act No. 466, as amended, otherwise known as

the National Internal Revenue Code; amortization of rehabilitation expenses, interest on capital loans; and one-half of the discount rate on treasury bills paid to it as assistance but in no case exceeding ten percent;

- e. 'Newly-mined gold' means gold fresh from the mill or smelter, which has never been in trade or commerce actually produced by the gold producer, certified as such by the gold producer and confirmed by the Board.
- f. 'Free market' means domestic and foreign open market;
- g. 'Assistance' is the amount given by the Government to gold producers during the effectivity of this Act
- h. 'Official Price' means the equivalent in Philippine pesos of the official world price of gold which is presents fixed at \$35.00 per ounce, based on the prevailing market rate or any other rate that may subsequently fixed by the Government;
- i. 'Ounce' means troy ounce which is one-twelfth of a pound of five thousand seven hundred sixty grains or four hundred eighty grains of 31.1035 gram;
- j. 'Refined gold' means gold that has been purified to the fineness acceptable to the Central Bank; and
- k. 'Mine producing gold as a principal product' refers ' mine where the receipt from whatever source from the sale of gold is more than fifty per cent of the total receipts.

"SEC 4. *Gold producers qualified to receive assistance.*— To be entitled to the assistance provided in this Act.; a gold producer must sell to the Central Bank, and the Central Bank is hereby directed to purchase, its entire production of newly mined gold at the official price defined in Section 2 (h) hereof, and in cases where the ore concentrates, bullion or matte are processed or refined abroad, the gold producer must have used the services 01 vessels of Philippine Registry and/or Philippine carriers to the ports of call or on routes served by them, if such services are available to such places where the concentrates, bullion or matte are to be processed or refined. Should a gold producer sell his gold in violation of this section at any time during a certain year, the entire production for that year shall not be entitled to assistance. Any assistance already given shall be refunded, and the manager or person in-charge of the mining corporation that sells its gold produce or part thereof in violation of this section shall, upon conviction, be punished by a fine of not more than P5,000 or an imprisonment of not more than two years or both in the discretion of the Court: *Provided, however,* any gold producer which may hereafter invest more twenty-five per cent of its paid-up capital and surplus abroad shall not be entitled to the benefits of this Act, unless such investments do not involve direct remittance of foreign exchange: *Provided, further,* That a gold Producer that makes a profit in any calendar year of twelve percent on the sale of its gold to the Central Bank exclusive of assistance shall not be entitled to assistance in at year. "Profit" as herein used shall mean the difference between the official price and the cost of production the gold: *Provided, finally,* That any gold producer shall continue to receive assistance under this Act only if it presents evidence to the Board that it is diversifying or phasing out its operations so that it shall no longer require assistance after five years