

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **9609**



Introduced by **Representatives EDGAR M. CHATTO, JOCELYN SY LIMKAICHONG, FERNANDO T. CABREDO, ANNA VICTORIA VELOSO-TUAZON, CHRISTIAN TELL A. YAP, and JOSE MANUEL F. ALBA**

EXPLANATORY NOTE

The world is on the brink of climate catastrophe.

The recently published Sixth Assessment Report (AR6) of the Working Group I of the Intergovernmental Panel on Climate Change (IPCC), entitled "Climate Change 2021: the Physical Science Basis", warned that "unless there are immediate, rapid and large-scale reductions in greenhouse gas emissions, limiting warming to close to 1.5°C or even 2°C will be beyond reach." It was further emphasized that a 1.5°C increase shall bring with it more severe heat waves, longer warm seasons and shorter cold seasons; at 2°C of global warming, heat extremes would more often reach critical tolerance thresholds for agriculture and health. This change in the climate is unequivocal and supported by multiple lines of evidence. As such, the limiting warming to these numbers is the ultimate goal of the Paris Agreement.

Subsequently, the IPCC AR6 Working Group II's Report entitled "Climate Change 2022: Impacts, Adaptation and Vulnerability" affirmed that the observed increases in frequency and intensity of weather and climate extremes have resulted to widespread and pervasive impacts to ecosystems, peoples, settlements, and infrastructure, and that the changing climate has caused substantial damages and increasingly, irreversible losses. It projected that global warming of 1.5°C in the near-term would cause unavoidable increases in multiple climate hazards and present multiple risks to ecosystems and humans (very high confidence). The level of risk depends on concurrent near-term trends in vulnerability, exposure, level of socioeconomic development, and adaptation (high confidence). Near-term actions that limit global warming to close to 1.5°C would substantially reduce projected losses and damages related to climate change in human systems and ecosystems, compared to higher warming levels, but cannot eliminate them all (very high confidence).

The IPCC is especially resonant to the Philippines and other highly vulnerable countries for which some climate impacts can no longer be absorbed by adaptation, as clarified by the IPCC AR6 Working Group II:

“Adaptation does not prevent all losses and damages, even with effective adaptation and before reaching soft and hard limits. Losses and damages are unequally distributed across systems, regions and sectors and are not comprehensively addressed by current financial, governance and institutional arrangements, particularly in vulnerable developing countries. With increasing global warming, losses and damage increase and become increasingly difficult to avoid, while strongly concentrated among the poorest vulnerable populations.”

Worryingly, these projected adverse impacts and related loss and damages escalate with every increment of global warming.

Apart from the disastrous consequences, climate change also threatens the effective enjoyment of a range of human rights including those that are vital to life, water and sanitation, food, health, housing, self-determination, culture, and development. The State, indubitably, has an obligation to prevent the foreseeable adverse effects of climate change and ensure that those affected by these, particularly those that are marginalized and in vulnerable situations, have access to effective remedies.

The Philippines, as a highly climate-vulnerable to impacts of climate hazards, is at great risk in terms of life and livelihood loss, infrastructure damage, and ecosystem collapse, which will, undoubtedly, result in societal upheaval.

In the long-term Climate Risk Index (CRI) for the period 2000 to 2010, GermanWatch ranked the Philippines as the fourth (4th) most affected country in the world to the impacts of climate change. In fact, the Philippines suffered an average annual loss of 0.54 percent in its gross domestic product (GDP), which translates to USD 3.2 billion every year. As corroborated by the Department of Finance (DOF), the Philippines has incurred losses and damages estimated to reach P506.1 billion (approximately US\$10 billion) from climate-related hazards over a decade, underscoring its extreme vulnerability to the climate crisis despite contributing only 0.3 percent of the planet’s total greenhouse gas (GHG) emissions. Further, based on the data gathered by the DOF, this amount makes up 98.2 percent of the country’s total estimated losses and damages from 2010 to 2020 of P515.51 billion or around US\$10.6 billion. This staggering amount is equivalent to an annual average of P48.9 billion, which is about 0.33 percent of the country’s annual average GDP.”¹

¹ https://www.dof.gov.ph/climate-related-hazards-led-to-us10-b-losses-for-low-carbon-emission-phl-over-10-year-period/?utm_source=rss&utm_medium=rss&utm_campaign=climate-related-hazards-led-to-us10-b-losses-for-low-carbon-emission-phl-over-10-year-period

Moreover, in the 2018 World Risk Report of the Global Facility for Disaster Risk Reduction, the Philippines ranked third (3rd) among all the countries with the highest risks to disasters. As stated in its 2017 report, at least 60 percent of the country's total land area is exposed to multiple hazards, and 74 percent of the population is susceptible to their impact.

The vulnerability of the Philippines as well as other poor nations underscores the importance of climate justice. Rich nations and corporations must take responsibility for the adverse impacts of climate change. Such responsibility includes raising the ambition for cutting carbon emissions and committing to finance that allows poor nations to deal with adverse climate impacts. The landmark 2015 Paris Agreement has created a pathway for legal recourse in ensuring accountability. *Milieudefensie et al v. Royal Dutch Shell*,² decided by the District Court of the Hague in May 2021, was anchored on the Paris Agreement. In a watershed decision, the Court recognized the obligation of respondent Shell Corporation to mitigate climate change by instructing it to curtail its GHG emissions from its 2019 levels by 45% by 2030.

In 2015, the Philippines made history when the typhoon survivors and civil society groups lodged a complaint before the Commission on Human Rights (CHR), calling for a probe into the possible human rights violations of several carbon majors, most of which were oil, gas, coal, and cement corporations, in the context of climate change. At the time of its filing, it was the world's first investigation into potential corporate responsibility for climate change.

In May 2022, the CHR released its report on the inquiry, and among its findings were that climate change is a human rights issue, and that carbon majors can be held liable for their human rights violations. Towards the end of its report, it laid down several recommendations, including disincentivizing financial institutions from funding carbon majors, and creating a sufficient loss and damage facility.

It is to be noted, however, that the CHR's report is not legally binding. Nevertheless, it serves as robust precedent and a framework for extracting further accountability for those who would like to subsequently pursue litigation in either domestic or international courts.

In another historic move, the United Nations General Assembly passed a resolution in July 2022 declaring that everyone on the planet had a right to a clean, healthy, and sustainable environment, and called on states to step up efforts to ensure this right is protected.³ The resolution further affirmed that "the promotion of the human right to a clean, healthy and sustainable environment requires the full implementation of the multilateral agreements under the principles of international environmental law." Again,

2

³ <https://www.unep.org/news-and-stories/story/historic-move-un-declares-healthy-environment-human-right>

like the CHR's report, the resolution is not legally-binding; however, it is hoped that said resolution will create a trickle-down effect and lead countries into incorporating that right in their national and local laws.

A law, therefore, which ensures that climate-related human rights violations find legal remedy is necessary and urgent. Without a legal framework to address loss and damage from climate change impacts, corporations will continue to defend and promote their unbridled burning of fossil fuels. Although the Philippines's carbon emissions remain miniscule compared to that of the world average, and even those of developed countries for that matter, continued fossil fuel dependence globally vitiates the principle of common but differentiated responsibility (CBDR) by allowing developed countries to continue their greater share of carbon pollution, aided and abetted by the fossil fuel industry.

Fossil fuel dependence, as the growing field of attribution science can confirm, puts communities in actual risk, where slow-onset events associated with the adverse impacts of climate change and extreme climate events and where climate variability and climate vulnerability meet and create the conditions ripe for disaster. The slow-onset nature of climate change also makes it problematic to locate fittingly within traditional legal notions of harm and injury because by the time sea level rise, apocalyptic typhoons, droughts, spread of diseases, and heatwaves happen, among others, conduct contributing to climate change had taken place; in other words, these apocalyptic events are mere inevitable consequences of a prior harmful conduct that has occurred. It is thus imperative that we take a step-back, make a paradigm shift, and treat conduct contributing to climate change as a harm in and of itself.

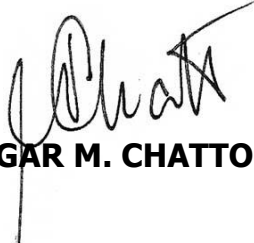
A loss and damage-focused legal framework for these aforementioned climate-related issues will be a world's first and shall establish a specific climate-action track in addition to adaptation and mitigation; it shall serve too as an innovative pioneering example of national legislation to enhance climate action, protect communities, and effect transformative change.

Loss and damage reinforces the need for an accountability regime where climate change has been established by the Intergovernmental Panel on Climate Change (IPCC) as anthropogenic. Fossil fuel dependence continues to be driven by carbon majors; without an accountability framework it will continue unabated, pushing the planet over the edge.

The Paris Agreement is eloquent in reminding States to “respect, promote, and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.”

Further, Article 4 (2) of the Paris Agreement requires country Parties to prepare, communicate and maintain successive nationally determined contributions (NDCs) that it intends to achieve. It also provided in the same paragraph that Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions. Article 8 (1) provides that Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage. Finally, the 27th Conference of Parties, through the Sharm el Sheikh Implementation Plan, adopted decisions -/CP.27 and /CMA.4 on matters relating to funding arrangements responding to loss and damage associated with the adverse effects of climate change.


For the above reasons, the urgent passing of this bill is earnestly sought.



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AN ACT
TO INSTITUTE POLICIES AND SYSTEMS TO ADDRESS CLIMATE CHANGE, ESTABLISHING THE NECESSARY INSTITUTIONAL MECHANISMS FOR THE PROTECTION OF MOST VULNERABLE COMMUNITIES FROM LOSS AND DAMAGE IN THE COUNTRY, PROVIDING FOR CORPORATE AND STATE ACCOUNTABILITIES AND REPARATIONS FOR VIOLATION THEREOF, AND OTHER PURPOSES

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

CHAPTER I

GENERAL PROVISIONS

1
2
3
4
5 **SECTION 1. *Short Title.*** – This Act shall be known and referred to as “The
6 Climate Accountability (CLIMA) Act.”
7

8 **SEC. 2. *Declaration of Policy*** – It is the declared policy of the State to protect
9 and advance the right of the people to a balanced and healthful ecology in accord with
10 the rhythm and harmony of nature, and shall protect and promote the right to health,
11 dignified life, of the people and instill health consciousness among them.
12

13 The State shall protect climate systems for the benefit of its citizens, and
14 generations yet to be born, on the basis of the precautionary principle, climate justice,
15 common but differentiated responsibilities, and just transition. In this context, the State
16 shall enjoin the participation of businesses to prevent and reduce the adverse impacts of
17 climate change in the context of sustainable development. Towards this end, the State

1 adheres to the United Nations Guiding Principles on Business and Human Rights as a
2 basis for the establishment of minimum standards of behavior for corporate interests
3 operating in the Philippines and in all territories over which the Philippines has
4 sovereignty or jurisdiction.

5
6 **SEC. 3. Definition of Terms.** – For the purposes of this Act, the following terms
7 shall be defined as:

- 8
- 9 (a) **Adaptation** refers to the adjustment in natural or human systems in response
10 to actual or expected climatic stimuli or their effects, which moderates harm
11 and/or exploits beneficial opportunities;
- 12
- 13 (b) **Anthropogenic causes** refer to causes resulting from human activities or
14 produced by human beings;
- 15
- 16 (c) **Business** refers to a natural or legal person, including State-owned
17 enterprises, transnational corporations and business enterprises of
18 transnational character, other business enterprises, and joint ventures,
19 whether individual or aggregate entities, undertaken by a natural person or a
20 legal person duly incorporated under the Revised Corporation Code of the
21 Philippines or the corresponding relevant corporate establishment legislation in
22 other countries. For the purposes of this Act, “business” shall mean businesses
23 that reported a gross income of more than ₱100,000,000.00 in the previous
24 tax year, or carbon majors, regardless of amount of gross income.
- 25
- 26 (d) **Business relationship** refers to any relationship between businesses to
27 conduct business activities, including those activities conducted through
28 affiliates, subsidiaries, agents, suppliers, partnerships, joint venture, beneficial
29 proprietorship, or any other structure or contractual relationship as provided
30 under the domestic law of the State, including activities undertaken by
31 electronic means;
- 32
- 33 (e) **Carbon majors** refer to the businesses that are multinational or state-owned
34 producers, traders, and refineries of crude oil, natural gas, coal, and cement,
35 that significantly contribute to global greenhouse gas emissions without taking
36 climate accountability, and therefore primarily drive climate change;
- 37
- 38 (f) **Climate accountability** refers to the responsibility of and corresponding
39 need for reparation from carbon majors significantly responsible for climate
40 change. A climate accountability regime establishes a governance mechanism
41 for ensuring that climate targets are met through robust regulation and
42 progress reporting. The accountability of carbon majors as defined in this Act
43 shall range from negligence to causation based on emissions thresholds;
- 44

- 1 (g) **Climate change** refers to a change in climate that can be identified by
2 changes in the mean and/or variability of its properties and that persists for an
3 extended period typically decades or longer, now mainly driven by
4 anthropogenic activities since the 1800s;
5
- 6 (h) **Climate Change Victims/Survivors** refer to (a) people or communities who
7 suffered harm, including physical or mental injury, emotional suffering, or
8 economic or property loss, or impairment of their human rights as a result of
9 climate-related loss and damage; or (b) those communities affected by slow
10 or rapid-onset events of such magnitude, that cannot be avoided either by
11 mitigation (avoiding and reducing greenhouse gas emissions) or adaptation
12 (adjusting to current and future climate change impacts; or who have been, or
13 are likely to be, severely affected by climate change, while at the same time
14 having inadequate human, social and economic capital for climate change
15 adaptation, including relocation;
16
- 17 (i) **Greenhouse gases (GHG)** refer to constituents of the atmosphere that
18 contribute to the greenhouse effect including, but not limited to, carbon
19 dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and
20 sulfur hexafluoride.
21
- 22 (j) **Intergovernmental Panel on Climate Change or IPCC** refers to the
23 intergovernmental body of the United Nations responsible for assessing the
24 science related to climate change;
25
- 26 (k) **Loss and Damage** refers to the harms resulting from the adverse effects of
27 climate change, including extreme weather events and slow onset events, such
28 as sea level rise. This includes economic or non-economic harms to life,
29 livelihoods, ecosystems, or cultural heritage, and can involve tangible or non-
30 tangible property, possessions, cultural identity, sacred places or objects,
31 human health, among other things;
32
- 33 (l) **Mitigation**, in the context of climate change, refers to human intervention to
34 address anthropogenic emissions by sources and removals by sinks of all GHGs,
35 including ozone-depleting substances and their substitutes;
36
- 37 (m) **Nationally determined contribution** refers to the Philippines' nationally
38 determined contribution ("NDC"), as a climate action plan to cut emissions and
39 adapt to climate impacts, undertaken and communicated pursuant to Article 3
40 of the Paris Agreement;
41
- 42 (n) **Paris Agreement** refers to an international treaty on climate change adopted
43 by the Parties, including the Philippines, to the United Nations Framework
44 Convention on Climate Change (UNFCCC) at the twenty-first session of the
45 Conference of Parties of the UNFCCC in December 2015 and duly deposited

1 with the United Nations Secretary-General as its Treaty Depository which aims
2 to strengthen the global response to the threat of climate change, in the
3 context of sustainable development and efforts to eradicate poverty, and will
4 be implemented to reflect equity and the principle of common but
5 differentiated responsibilities (CBDR) and respective capabilities, in light of
6 different national circumstances;

7
8 (o) **Reparations** refer to the amends for a tort or injury inflicted, especially, in
9 the context of this bill, compensation, relocation, and rehabilitation and
10 recovery for victims/survivors of climate loss and damage;

11
12 (p) **Vulnerability** refers to the degree to which a system is susceptible to, or
13 unable to cope with, adverse effects of climate change, including climate
14 variability and extremes. Vulnerability is a function of the character,
15 magnitude, and rate of climate change and variation to which a system is
16 exposed, its sensitivity, and its adaptive capacity.

17 18 **CHAPTER II**

19 20 **FRAMEWORK FOR BUSINESS ACCOUNTABILITY**

21 22 **SEC. 4. *Due Diligence Standard of Care in the Conduct of Business* –**

23 Businesses in the conduct of their activities shall do no harm. To this end, these
24 businesses are mandated to undertake the following throughout their value chain, among
25 others:

- 26
27 (a) Businesses must take proactive steps to find out facts about possible climate
28 harms their operations may cause and to prevent and address them;
- 29
30 (b) Businesses must proactively adopt measures to shift away from their business-
31 as-usual activities exacerbating climate change impacts, strategically reduce
32 their GHG emissions, and to uphold human rights; and
- 33
34 (c) Taking into account existing and prospective vulnerabilities, businesses must
35 address potential impacts of their activities, and to have stringent risk
36 management efforts.

37
38 Businesses must undertake measures that are in reasonable proportion to the
39 nature and scope of the business activities, their ability to influence, the severity of the
40 violation that can typically be expected, and the nature of and causal contribution to such
41 harms.

42
43 A business shall be held accountable for negligence emanating from the
44 businesses' role in exacerbating extreme weather events or slow-onset events where
45 they exceed established thresholds for GHG emissions.

1
2 **SEC. 5. Responsibilities.** – Businesses have the responsibility to update their
3 conduct and policies in accordance with the United Nations Guiding Principles on Business
4 and Human Rights. Moreover, they have the following tasks and responsibilities under
5 the law:

- 6
7 (a) Climate related financial disclosures – Businesses shall disclose to the Securities
8 and Exchange Commission (SEC) climate-related financial disclosures and the
9 names of those who authorized the climate-related financial transactions. This
10 shall include opportunities and risks from climate impacts, climate policies and
11 new technologies;
12
13 (b) Measurement of GHG emissions – Businesses shall measure and analyze their
14 GHG emissions, throughout their value chains, to comply with the standards
15 based on the most recent scientific evidence and reports of the IPCC;
16
17 (c) Prevention of human rights abuses – Businesses must ensure, throughout their
18 value chains, that in the conduct of their operations and activities, efforts must
19 be made not just to counter the adverse impacts of climate change, but also
20 to ensure the protection of human rights. Businesses shall respect, protect,
21 and promote the human rights of communities, including the right to life,
22 liberty and property, freedom of movement, right of public participation, and
23 the right to self-determination of indigenous cultural communities. In
24 accordance with the United Nations Guiding Principles on Business and Human
25 Rights, businesses have the responsibility to respect human rights especially in
26 the context of climate change, and should avoid harming these rights by taking
27 proactive steps to identify, prevent, mitigate, and address adverse impacts with
28 which they are involved;
29
30 (d) Monitoring of people who experience the impacts of climate change – Due
31 diligence must be undertaken by businesses to address the adverse climate
32 change-related human rights impacts they may cause or contribute through its
33 own activities, or which may be directly linked to its operations, products or
34 services by its business relationships. This can be achieved through on-the-
35 ground assessments of adverse impacts through stakeholder participation.

36
37 Stakeholder consultations should be held on a regular basis with reports
38 released on a quarterly schedule.
39

40 For projects that require the consent of the communities in which
41 infrastructure is constructed, the business must proactively pursue the
42 compliance with and adherence to the provisions of Republic Act No. 8371, or
43 “The Indigenous People’s Rights Act of 1997”.
44

1 (e) Reporting – Businesses shall submit a report of their findings, and initiatives to
2 address the issues mentioned under Sections 4, 5, and 6 of this Act. The report
3 shall include initiatives that were taken in the context of business relationships,
4 such as, entities in its value chain, and any other non-state or state entity
5 directly linked to the business operations, products or services. The report shall
6 also include an assessment of vulnerabilities, and whether or not efforts have
7 been made to address the possible impacts of climate change through internal
8 or external corporate policy decisions, or whether the business utilizes
9 renewable energy. The report must also include mitigation and adaptation
10 efforts, energy efficiency particularly with regard to equipment inventory,
11 waste reduction, and the utilization and construction of green infrastructure to
12 support the work of the corporation.

13
14 The report shall be filed by the business with the Climate Change Commission
15 and the Securities and Exchange Commission, and shall be made available on
16 all their platforms for download and distribution to the public at any time.

17
18 To help businesses with their reportorial requirements, this Act shall establish
19 a reporting facility for GHG emissions of businesses, and a threshold for
20 acceptable emissions established. Such a reporting facility will be lodged with
21 the Philippine Geophysical Atmospheric and Astronomical Services
22 Administration (PAG-ASA).

23
24 **SEC. 6. Adoption of the Precautionary Principle.** – This Act shall adopt Rule
25 20 of the *Rules of Procedure for Environmental Cases*, where:

26
27 (a) Applicability.—When there is a lack of full scientific certainty in establishing a
28 causal link between human activity and environmental effect, the court shall
29 apply the precautionary principle in resolving the case before it.

30
31 The constitutional right of the people to a balanced and healthful ecology shall be
32 given the benefit of the doubt.

33
34 (b) Standards for application.—In applying the precautionary principle, the following
35 factors, among others, may be considered: (1) threats to human life or health; (2)
36 inequity to present or future generations; or (3) prejudice to the environment
37 without legal consideration of the environmental rights of those affected.

38
39 The business and the PAGASA, which monitors GHG emissions, shall also be
40 obliged to disclose whether or not the cause and effect have not yet been scientifically
41 established.

42
43 **SEC. 7. Incentives.** – Businesses which observe their due diligence standard

1 of care and which contribute to the transition to clean energy as set out in the Philippines'
2 Nationally Determined Contribution (NDC) and other mechanisms and roadmaps shall be
3 recognized by the government through a tax credit regime. This shall be rationalized in
4 the IRR upon the passage of the bill.
5

6 **SEC. 8. *Who may file.*** – Any real party in interest, or the climate change
7 victims/survivors may seek redress for any harm caused by non-compliance of the
8 business entity with its obligations under Sections 4 to 6 or commission of any prohibited
9 acts under this Act. Minors, generations yet unborn, and biodiversity can, likewise, be
10 allowed as litigants which should be represented by a legal guardian, in compliance with
11 A.M. No. 09-6-8-SC, or the "Rules of Procedure for Environmental Cases". The petitions
12 may be filed with the regional trial court exercising jurisdiction on the business address
13 of the corporation, the residence of the complainant/s, or any location where the impact
14 is felt.
15

16 The filing of a petition in the domestic courts shall be without prejudice to the
17 seeking of appropriate administrative recourse or international redress.
18

19 **SEC. 9. *Citizens suits.*** – For the purpose of enforcing the provisions of this Act
20 or its implementing rules and regulations, any real party in interest may file appropriate
21 civil, criminal, and administrative suits against any of the following:
22

23 (a) Any person who violates or fails to comply with the provisions of this Act or its
24 implementing rules and regulations; or
25

26 (b) Any public officer with respect to orders, rules and regulations inconsistent
27 with this Act.
28

29 **SEC. 10. *Adoption of the Polluter Pays Principle.*** – Carbon majors or
30 polluters shall pay for the damage they caused to the environment, as may be provided
31 under relevant environmental and natural resource management laws such as, but not
32 limited to:
33

- 34 (a) Presidential Decree No. 705 or the "Revised Forestry Code of the Philippines";
35 (b) Presidential Decree No. 856 or the "Code on Sanitation of the Philippines";
36 (c) Presidential Decree No. 979 or the "Marine Pollution Decree of 1976";
37 (d) Presidential Decree No. 1152 or the "Philippine Environmental Code";
38 (e) Presidential Decree No. 1219 or "The Coral Resources Development and
39 Conservation Decree";
40 (f) Republic Act No. 6969 or the "Toxic Substances and Hazardous and Nuclear
41 Wastes Control Act of 1990";
42 (g) Republic Act No. 7076 or the "People's Small-scale Mining Act of 1991";
43 (h) Republic Act No. 7586 or the "National Integrated Protected Areas Systems
44 Act of 1992" as amended by Republic Act No. 11038;

- 1 (i) Republic Act No. 7942 or the "Philippine Mining Act of 1995";
- 2 (j) Republic Act No. 8048 or the "Coconut Preservation Act of 1995";
- 3 (k) Republic Act No. 8041 or the "National Water Crisis Act of 1995";
- 4 (l) Republic Act No. 8371 or "The Indigenous Peoples' Rights Act of 1997";
- 5 (m) Republic Act No. 8435 or the "Agriculture and Fisheries Modernization Act of
- 6 1997";
- 7 (n) Republic Act No. 8550 or "The Philippine Fisheries Code of 1998";
- 8 (o) Republic Act No. 8749 or the "Philippine Clean Air Act of 1999";
- 9 (p) Republic Act No. 9003 or the "Ecological Solid Waste Management Act of
- 10 2000";
- 11 (q) Republic Act No. 9136 or the "Electric Power Industry Reform Act of 2001";
- 12 (r) Republic Act No. 9147 or the "Wildlife Resources Conservation and Protection
- 13 Act";
- 14 (s) Republic Act No. 9072 or the "National Caves and Cave Resources
- 15 Management and Protection Act";
- 16 (t) Republic Act No. 9003 or "The Ecological Solid Waste Management Act";
- 17 (u) Republic Act No. 9168 or the "Philippine Plant Variety Protection Act of 2002";
- 18 (v) Republic Act No. 9275 or "The Philippine Clean Water Act of 2004";
- 19 (w) Republic Act No. 9367 or the "Biofuels Act of 2006";
- 20 (x) Republic Act No. 9513 or the "Renewable Energy Act of 2008";
- 21 (y) Republic Act No. 9729 or the "Climate Change Act of 2009" as amended by
- 22 Republic Act No. 10174;
- 23 (z) Republic Act No. 10121 or the "Philippine Disaster Risk Reduction and
- 24 Management Act of 2010";
- 25 (aa) Republic Act No. 7611 or the "Strategic Environmental Plan (SEP) for
- 26 Palawan Act";
- 27 (bb) Republic Act No. 9483 or the "Oil Pollution Compensations Act of 2007";
- 28 and
- 29 (cc) Republic Act No. 11285 or "An Act Institutionalizing Energy Efficiency and
- 30 Conservation, Enhancing the Efficient Use of Energy, and Granting Incentives
- 31 to Energy".

32
33 The polluter is not allowed to shift the burden of evidence for the damage caused
34 by the pollution.

35
36 The rights and causes of action that are created under this Act shall be without
37 prejudice to other causes of actions under existing laws. In estimating the amount of and
38 accountability for damage, attribution science can be used as a complementary
39 framework in lieu of proof of actual damage.

40
41 **SEC 11. Application of the Doctrine of Last Clear Chance.** — The Doctrine
42 of Last Clear Chance shall be applied to this Act whereby carbon majors' knowledge of
43 their significant contribution to climate change compels them to substantially reduce
44 greenhouse gas emissions to be faithful to their duty of care. Failure to do so implicates

1 them in exacerbating and thus makes them accountable for significantly contributing to
2 the climate crisis.

3
4 **SEC. 12. Attribution Science.** – Attribution science looks at how climate change
5 exacerbates an extreme event or makes it more frequent. In extreme event attribution,
6 real-time analyses may be conducted immediately after an extreme weather event to
7 determine whether climate change had played a role in it. This is carried out first by
8 examining archival data, and then running two simulation models, one where greenhouse
9 gas emissions are kept constant and another where actual greenhouse gas emissions are
10 factored in. Attribution science shall be viewed alongside factors such as exposure and
11 underlying vulnerability, which put communities at risk.

12
13 The adjudication of cases under this Act, therefore, shall make use of attribution
14 science as one of its bases for ruling. The adjudication shall build on existing
15 understandings of the climate-related events most substantially affected by human
16 influence on the climate. Establishing a threshold for greenhouse gas emissions beyond
17 which corporations will be found liable shall be the principal basis for prosecuting and
18 penalizing corporations.

19
20 **CHAPTER III**
21 **LOSS AND DAMAGE MECHANISMS**
22

23 **SEC. 13. Establishment of the Climate Change Reparations Fund.** –The Climate
24 Change Reparations Fund (CCRF) is hereby created as a special fund in the Bureau of
25 the Treasury for the financing of the claims approved by the Climate Change Reparations
26 Board. The CCRF shall be used to respond to claims made by Climate Change
27 Victims/Survivors. Claims may take the form of the following, among others:

- 28
29 (a) Compensation for economic and non-economic harms;
30 (b) Technology transfers;
31 (c) Capacity building;
32 (d) Financial support
33 (e) Relocation; and
34 (f) Recovery and Rehabilitation measures.

35
36 The amount of Fifty million pesos (₱50,000,000.00) shall be initially allotted as the
37 opening balance of the CCRF under the General Appropriations Act (GAA); Provided, That
38 the balance of the CCRF may be increased as the need arises; Provided, Further, That
39 the CCRF shall not be used to fund personal services and other operational services of
40 the Board; Provided, Furthermore, That the balance of the CCRF including the amount
41 appropriated in the GAA which shall form part of the funds shall not revert to the general
42 fund; Provided, Finally, That the Board shall submit to the Congress and the Department
43 of Budget and Management (DBM) an annual narrative and financial report on the
44 utilization of the CCRF.

1
2 The CCRF may be augmented by donations, endowments, grants, and
3 contributions, which shall be exempted from donor's tax and be considered as allowable
4 deductions from the gross income of the donor, in accordance with the provisions of the
5 National Internal Revenue Code of 1997, as amended. The CCRF shall also serve as the
6 repository for funds generated by international and other mechanisms created for loss
7 and damage finance.

8
9 **SEC. 14. Establishment of the Climate Change Reparations Board.** – There
10 is hereby created an independent quasi-judicial body to be known as the Climate Change
11 Reparations Board, hereinafter referred to as the Board, which shall be attached to the
12 Commission on Human Rights. The CCRB shall administer the CCRF.

13
14 The Board shall be composed of five (5) members, who shall possess the following
15 qualifications:

- 16
17 (a) Must be of known probity, competence, and integrity;
18 (b) Must have a deep and thorough understanding and knowledge of climate change,
19 environmental law, and/or ecosystems science;
20 (c) At least two (2) must be members of the Philippine Bar who have been engaged
21 in the practice of environmental law or human rights for at least ten (10) years;
22 (d) At least two (2) must be climate scientists or recognized experts who have a
23 technical proficiency of climate science and the subfield of climate attribution
24 science; and
25 (e) At least one (1) representative from and chosen by civil society engaged in human
26 rights and climate justice issues.

27
28 The Board shall organize itself within thirty (30) days from the completion of
29 appointment of all three (3) members and shall, thereafter, organize its Secretariat.

30
31 **SEC. 15. Appointment to the Board.** – The President shall appoint the
32 Chairperson and the members of the Board; *Provided*, That human rights organizations,
33 environmental organizations, and indigenous peoples' rights, women's rights, youth's
34 rights, and people with disabilities' rights advocates may submit nominations to the
35 President for the civil society representative; *Provided*, Further, That the members of the
36 Board cannot be removed without justifiable cause.

37
38 **SEC. 16. Term of Office.** – The members of the Board shall serve for three (3)
39 years: *Provided*, That for the first appointees, the Chairperson and two (2) members,
40 shall hold office for three (3) years, two (2) members shall hold office for two (2) years;
41 *Provided*, Further, That appointment to any future vacancy shall only be for the unexpired
42 term of the predecessor: *Provided*, Finally, That there shall be no reappointment and in
43 no case shall any member serve for more than seven (7) years.
44

1 **SEC. 17. *Functions of the Board.*** – The Board shall have the following powers
2 and functions:

- 3
- 4 (a) Receive, evaluate, process, and investigate applications for claims under this
5 Act;
 - 6 (b) Issue *subpoena ad testificandum* and *subpeona duces tecum*;
 - 7 (c) Enjoin any and all acts involving or arising from any claims pending before
8 it, which, if not restrained forthwith, may cause further or irreparable damage
9 to any of the parties to the claim or seriously affect social and economic
10 stability;
 - 11 (d) Hold any person in contempt, directly or indirectly, and impose appropriate
12 penalties therefor;
 - 13 (e) Administer the Climate Change Reparations Fund;
 - 14 (f) Approve with finality all eligible claims under this Act;
 - 15 (g) Deputize appropriate government agencies to assist the Board in order for it
16 to effectively perform its functions;
 - 17 (h) Exercise administrative control over its Secretariat;
 - 18 (i) Promulgate such rules as may be necessary to carry out the purposes of this
19 Act, including rules of procedure in the conduct of its proceedings, with the
20 Revised Rules of Court of the Philippines having suppletory application; and
 - 21 (j) Perform such other duties, functions, and responsibilities as may be
22 necessary to effectively attain the objectives of this Act.
- 23

24 In any proceeding before the Board, the rules of evidence prevailing in the courts
25 of law or equity shall not be controlling but applied suppletorily, and it is the spirit and
26 intention of this Act that shall govern. The board shall use every and all reasonable means
27 to ascertain the facts in each case speedily, objectively, and without regard to
28 technicalities of law or procedure, all in the interest of due process and social justice.

29

30 In any proceeding before the Board, the parties may be represented by a legal
31 counsel.

32

33 The findings of fact of the Board shall be conclusive and binding on the parties
34 and its decision or order shall be deemed final and executory.

35

36 **SEC. 18. *Resolution of Claims.*** – The Board shall be convened, with an
37 attendance of a majority, to resolve all claims.

38

39 **SEC. 19. *Compensation.*** – The Chairperson and members of the Board shall be
40 entitled to compensation in accordance with the Salary Standardization Law.

41

42 **SEC. 20. *Secretariat of the Board.*** – The Board shall be assisted by a
43 Secretariat, without prejudice to the hiring of additional personnel as determined by the
44 Board to accommodate the volume of required work.

45

1 The Secretariat shall assist the Board with its functions and perform other duties
2 as may be assigned by the Board.

3
4 The Chairperson of the Board shall appoint a Board Secretary who shall head the
5 Secretariat for the duration of the existence of its Board. There shall be a Technical Staff
6 Head to be assisted by five (5) legal officers and three (3) climate scientists, and an
7 Administrative Staff Head assisted by three (3) administrative support staff.

8
9 **CHAPTER IV**
10 **FINAL PROVISIONS**

11
12 **SEC. 21. Penal Provisions.** — Businesses shall be held liable for any observed
13 adverse impacts on the climate through the exercise of their work. This is anchored on
14 Sec 32 of the Civil Code of the Philippines which provides for the liability for damages of
15 any public officer or employee, or any private individual, who directly or indirectly
16 obstructs, defeats, violates or in any manner impedes or impairs the rights and liberties
17 of another person. The violation of the human right to the environment entitles the
18 victims thereto for damages from the perpetrators of such damage.

19
20 (a) **Greenwashing.** — Greenwashing refers to the conveyance of false information
21 on the environmental soundness of their products, operations, and services. Acts of
22 greenwashing include, but are not limited to, outright false statements, understating
23 impacts, omitting trade-offs, absence of proof backing up claims, vague or overbroad
24 claims, false third-party certifications, and the like. Any act of greenwashing shall be
25 restrained, and the culpable business engaged in greenwashing fined an amount
26 equivalent to 15% of their gross income reported in their latest regulatory disclosure.
27 The collected penalty shall accrue to the CCRF.

28
29 (b) **Climate denialism.** — Climate denialism refers to the public denial or dismissal
30 of anthropogenic climate change, in a manner deliberately intended to mislead or
31 intentionally misstating facts, contrary to scientific consensus. Any business engaged in
32 climate denialism shall be held liable for the disinformation perpetuated, by issuing a
33 public retraction and sanctioned with a penalty in an amount equivalent to 15% of their
34 gross income reported in their latest regulatory disclosure. The collected penalty shall
35 accrue to the CCRF.

36
37 (c) **Emission Penalty** - Based on data collated by the reporting facility for businesses’
38 GHG emissions established by this Act, an emission penalty shall be applied pursuant to
39 Section 12 of this Act for breaching the threshold for acceptable emissions which are also
40 aligned with the country’s nationally determined contributions. The threshold shall be
41 established after due consultation among the PAG-ASA, the Climate Change Reparations
42 Board, and the Climate Change Commission. All collected penalties shall be remitted to
43 the CCRF.

1 (d) **SLAPP Suits.** — Strategic lawsuit against public participation (SLAPP) refers to
2 an action whether civil, criminal or administrative, brought against any person, institution
3 or any government agency or local government unit or its officials and employees, with
4 the intent to harass, vex, exert undue pressure or stifle any legal recourse that such
5 person, institution or government agency has taken or may take in the enforcement of
6 environmental laws, protection of the environment or assertion of environmental rights.
7 This Act shall prohibit SLAPP Suits and shall penalize such suits filed, with damages
8 equivalent to 15% of the gross income of the petitioner and entity at whose instance and
9 for whose benefit the SLAPP Suit was filed.

10
11 Fines and penalties under this Act shall accrue to the CCRF. In addition to the
12 fines, the court has power to order the closure or suspension of business until such time
13 that proper environmental safeguards are put into place and the government is assured
14 of the compliance mechanism by the business: *Provided*, That an establishment liable for
15 a third offense shall suffer permanent and immediate closure.

16
17 This paragraph shall be without prejudice to the immediate issuance of an *ex parte*
18 order for such closure or suspension or cessation of operations during the pendency of
19 the case upon *prima facie* evidence that there is an imminent threat to life, public health,
20 safety or general welfare, or to biodiversity.

21
22 If the offender is a juridical person, the president, manager, directors, trustees,
23 or the officials directly related to the operations shall suffer the penalty herein provided.

24
25 **SEC. 22. Potential Loss of Employment.** – The Secretary of the Department
26 of Labor and Employment is authorized to establish a compensation and reemployment
27 scheme for employees of businesses that will be affected by any suspension or
28 permanent cessation of business activities as a result of the implementation and
29 enforcement of this Act. The Board can help determine the scope of the relief package
30 for the employees.

31
32 **SEC. 23. Coordination with Various Sectors.** – In order to fully implement
33 this Act, nongovernment organizations, community leaders, indigenous peoples, civic
34 society, the academe, and youth organizations, the private and corporate sectors, and
35 other concerned stakeholder groups shall be consulted and shall work in close
36 coordination with corporations.

37
38 **SEC. 24. Joint Congressional Oversight Committee.** – A Joint Congressional
39 Oversight Committee is created in order to monitor the implementation of this Act. The
40 Committee shall be composed of five (5) Senators and five (5) members of the House of
41 Representatives, selected respectively by the Senate President and the Speaker of the
42 House. The Committee shall be co-chaired by one (1) member from the Senate and the
43 House of Representatives, selected separately by their peers who are also members of
44 the Committee.

1
2 **SEC. 25. Appropriations.** – An amount of **Fifty Million Pesos**
3 **(P50,000,000.00)** shall be appropriated for the initial implementation of this Act.
4 Thereafter, the amount necessary to effectively carry out the provisions of this Act shall
5 be included in the General Appropriations Act.
6

7 **SEC. 26. Implementing Rules and Regulations.** – The Climate Change
8 Commission, Commission on Human Rights, and the Securities and Exchange
9 Commission, shall issue the Implementing Rules and Regulations within ninety (90) days
10 from the effectivity of this Act.
11

12 **SEC. 27. Separability Clause.** – If any of the sections or provisions of this Act
13 is held invalid, all other provisions not affected thereby shall remain valid.
14

15 **SEC. 28. Repealing Clause.** – All laws, decrees, orders, resolutions, instructions,
16 rules and regulations, and other issuances or parts thereof which are inconsistent with
17 the provisions of this Act are hereby repealed, amended, or modified accordingly.
18

19 **SEC. 29. Effectivity.** – This Act shall take effect fifteen (15) days after its
20 publication in the *Official Gazette* or in a newspaper of general circulation.