

SENATE  
S. B. No. 176

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*Introduced by Sen. M.A. Madrigal*

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AN ACT  
DECLARING THE AGUSAN MARSH IN THE PROVINCE OF AGUSAN  
DEL SUR AS A PROTECTED AREA AND FOR OTHER PURPOSES.

*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 "Agusan Marsh Protected Area Act of 2007".

Sec . 2. *Declaration of Policy.* - Cognizant of the unique biological resources and the aesthetic, economic and ecological importance of Agusan Marsh, it is hereby declared the policy of the State to protect and preserve its natural biodiversity and to promote the welfare of the human communities therein, their culture and way of life insofar as they are in harmony with nature. Towards this end, the State shall ensure the protection and conservation of the Agusan Marsh through sustainable and participatory development, and promote the rights of legitimate inhabitants therein and their customary laws.

Sec. 3. *Scope.* - The Agusan Marsh Protected Area is located in the municipalities of Talacogon, San Francisco, Rosario, Bunawan, Loreto and Lapaz, all in the Province of Agusan del Sur, and covers a total area of forty thousand eight hundred sixty-eight (40,868) hectares, more particularly described as follows:

CORNER	LONGITUDE	LATITUDE
1	125° 49' 04.79"	8°23' 42.52"
2	125°48' 12.00"	8° 25' 04.99"
3	125° 47' 45.61"	8° 25' 27.43"
4	125° 46' 53.11"	8°25' 26.43"
5	125° 46' 05.20"	8°25' 00.65"
6	125° 44' 49.47"	8°24' 26.12"
7	125° 45' 43.53"	8° 28' 35.42"
8	125°46'23.31"	8° 28' 24.47"
9	125° 46' 35.47"	8° 27' 47.25"
10	125°47' 14.00"	8°26' 14.00"

11	125° 48' 16.02"	8°26' 04.35"
12	125°48' 35.62"	8° 25' 20.29"
13	125° 52' 15.30"	8°27' 07.15"
14	125° 52' 12.24"	8°27' 30.98"
15	125°54' 03.83"	8° 28' 38.32"
16	125° 48' 12.00"	8°29' 04.84"
17	125° 54' 56.89"	8° 29' 00.92"
18	125° 55' 32.73"	8° 28' 18.88"
19	125°55' 42.83"	8° 26' 46.73"
20	125° 56' 25.83"	8° 26' 49.89"
21	125°56' 45.39"	8°25' 42.12"
22	125° 55' 52.45"	8°24' 59.17"
23	125° 55' 06.62"	8° 24' 26.48"
24	125° 54' 44.48"	8° 23' 45.67"
25	125° 54' 49.22"	8°23' 37.35"
26	125° 56' 56.36"	8° 22' 58.64"
27	125° 57' 40.79"	8° 22' 04.75"
28	125° 57' 16.33"	8°21' 28.91"
29	125° 56' 36.83"	8°21' 19.18"
30	125° 56' 58.78"	8°20' 35.91"
31	125°58' 33.34"	8°16' 13.41"
32	125° 56' 13.01"	8° 14' 44.96"
33	125°55' 27.53"	8° 13' 52.44"
34	125° 55' 22.90"	8° 12' 55.75"
35	125°55' 25.98"	8°12' 18.40"
36	125°54' 59.50"	8°12' 11.61"
37	125°55' 05.08"	8°12' 01.15"
38	125°55' 06.25"	8° 11' 35.18"
39	125° 56' 42.60"	8°09' 45.79"
40	125° 55' 17.88"	8°09' 41.73"
41	125°55' 20.34"	8° 08' 55.13"
42	125°56' 51.60"	8°08' 50.51"
43	125°57' 08.70"	8'08' 43.18"
44	125° 56' 07.40"	8°08' 12.90"
45	125° 55' 40.71"	8°08' 09.85"
46	125°54' 53.29"	8°08' 36.84"
47	125°55' 02.79"	8°08' 49.79"
48	125°54' 59.01"	8°09' 09.17"
49	125°54' 46.68"	8°09' 11.63"
50	125° 54' 45.83"	8°08' 59.76"
51	125°54' 34.49"	8°08' 33.42"
52	125°54' 26.59"	8°08' 10.15"
53	125°54' 14.53"	8°07' 52.51"
54	125° 54' 26.17"	8°07' 46.37"
55	125°54' 22.61"	8° 07' 32.20"
56	125°54' 18.04"	8°07' 26.21"
57	125° 52' 50.11"	8°07' 20.68"
58	125° 53' 10.52"	8° 07' 31.73"

59	125° 53'20.71"	8°07' 46.84"
60	125° 53' 11.80"	8°08' 09.03"
61	125°53' 18.25"	8°08' 48.88"
62	125°53'22.14"	8°09' 29.74"
63	125°53' 34.51"	8°09' 30.33"
64	125°53' 34.10"	8°09' 49.88"
65	125°53' 39.04"	8°10' 14.43"
66	125°53' 41.65"	8°10' 28.27"
67	125°53' 34.33"	8°10' 54.15"
68	125°52' 5.2..16"	8°10'27.71"
69	125°52' 32.21"	8°10' 31.70"
70	125°52'22.57"	8°10' 38.02"
71	125° 52' 09.78"	8°11' 12.20"
72	125° 52' 22.84"	8°11' 12.06"
73	125°052' 16.37"	8°11' 16.37"
74	125°052' 04.64"	8°11' 36.52"
75	125°052' 03.40"	8°12' 03.85"
76	125°052' 06.67"	8° 12' 14.26"
77	125°051' 47.45"	8°12' 46.53"
78	125°51' 17.87"	8°12' 56.01"
79	125°51' 20.56"	8°15' 00.30"
80	125°51' 04.98"	8°15' 03.84"
81	125°50' 32.40"	8°15' 45.76"
82	125°50' 18.71"	8° 16' 11.78"
83	125°50' 19.09"	8°16' 37.70"
84	125°51' 14.98"	8°16' 59.06"
85	125°52' 17.17"	8° 17' 29.35"
86	125°52' 56.66"	8°17' 38.54"
87	125°53' 53.33"	8°18' 05.11"
88	125°53' 52.01"	8°18' 46.58"
89	125°53' 20.80"	8°19' 14.36"
90	125°52' 38.47"	8°19' 13.76"
91	125°51' 29.53"	8° 18' 17.95"
92	125°50' 55.06"	8°17'52.19"
93	125°49' 54.07"	8°17' 58.93"
94	125°49' 40.42"	8° 18' 07.45"
95	125°49' 37.33"	8°19' 13.68"
96	125°48' 30.19"	8°20' 26.87"

Any modification to the protected area (PA) boundary due to factors such as changing ecological situations, new scientific or archaeological findings, or discovery of traditional boundaries shall be made through an act of Congress, after full consultation with the affected public and concerned government agencies.

Considering the character of Agusan Marsh as a catch basin, this section shall not preclude the Protected Area Management Board (PAMB), created in Section 6 herein, or the Department of Environment and Natural Resources

(DENR) from taking appropriate action outside the PA to prevent any adverse effects thereto such as, but not limited to, wastes from industries and run-offs from all areas that feed into the Agusan Marsh.

SEC. 4. *Definition of Terms.* - For purposes of this Act, the following terms are defined as follows:

(a) "Ancestral domains/ancestral lands" refers to all areas generally belonging to indigenous cultural communities comprising lands, inland waters and natural resources therein, held under a claim of ownership, occupied or possessed by indigenous cultural communities, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, *force majeure* or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals or corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by indigenous cultural communities but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of indigenous cultural communities who are still nomadic and/or shifting cultivators.

(b) "Biodiversity" refers to the variety and variability among all living organisms and the ecological complex in which they occur.

(c) "By-products" refers to any part taken from wild species such as hides, antlers, feathers, fur, teeth, claws, internal organs, eggs, roots, trunk, branches, leaves, stems, flowers, bark, including its derivatives such as blood, oils, resin, gum, seed, spores, pollen, oil, honey, beeswax and the like.

(d) "Collection or collecting" refers to the act of gathering or harvesting wild flora and fauna species, and its by-products or derivatives,

(e) "Commercial facilities" refers to the conduct of business whether private or governmental by natural or juridical persons with the purpose of securing an economic or resource surplus not needed for immediate subsistence.

(f) "Conservation" refers to the optimum use and management of natural resources in order to meet the needs and aspirations of the present and the future.

(g) "Ecosystem" refers to the community of plants and animals, their physical environment and the interactions between or among them.

(h) "Environmental Impact Assessment" refers to the Environmental Impact Assessment System established under Presidential Decree No. 1586 or supervening legislation.

(i) "Exotic species" refers to species or subspecies that do not naturally occur within the country or within the bio-geographic region of the Philippines, within which the PA is situated.

(j) "Fish/aquatic animals/products" refers to all fishes and other aquatic animals such as crustaceans, echinoderms, marine mammals and all other species of aquatic flora and fauna, and all other products of aquatic living resources in any form.

(k) "Fishing" refers to the taking of fish, aquatic products or any aquatic flora and fauna in their wild state or habitat, with or without the use of fishing vessels.

(l) "Forest products" refers to include timber, pulpwood, firewood, bark tree top, resin gum, wood, lumber, oil, honey, beeswax, nipa, rattan or other forest growth such as grass, shrub and flowering plant, the associated water, fish, game, scenic, historical, recreational and geologic resources in forest lands.

(m) "Indigenous cultural communities" refers to the indigenous cultural communities/indigenous peoples as defined in Republic Act No. 8371, otherwise known as the Indigenous Peoples' Rights Act of 1997, specifically the Manobos who reside within or are substantially dependent on the PA.

(n) "Non-governmental organizations" refers to non-stock, nonprofit organizations with qualifications, expertise and objectivity in activities concerning community organizing and development, or resource and environmental conservation, management and protection related to the PA.

(o) "People's organizations" refers to a group of people which may be an association, cooperative, federation, aggrupation of individuals or groups with an identifiable structure of decision-making and accountability, established to undertake collective action to address community concerns and needs in relation to the PA.

(p) "Secretary" refers to the Secretary of the DENR.

(q) "Tenured migrants" refers to individuals and households who have actually and continuously occupied such public lands which are not alienable and disposable within the PA before June 1, 1987 and are substantially dependent on the PA for their livelihood.

SEC.5. *The Agusan Marsh Protected Area Management Board.* - There shall be a Protected Area Management Board (PAMB) which shall be the policy-making body of the PA. It shall be composed of:

(a) The Regional Executive Director (RED) of the DENR CARAGAXIII as chairman;

(b) The Provincial Governor of Agusan del Sur as co-chairman;

(c) The Provincial Planning and Development Officer of Agusan del Sur and/or a permanent representative from the same office as designated by the Provincial Governor;

(d) The Municipal Mayors of all the municipalities comprising the Agusan Marsh Protected Area or their duly designated permanent representatives;

(e) One barangay captain selected from among all the barangays of each of the municipalities comprising the Agusan Marsh Protected Area;

(f) One representative from each tribal community in each of the municipalities comprising the PA selected by and among themselves according to customary rights;

(g) Maximum of six representatives from peoples' organizations (POs) selected from among themselves in a meeting duly called among all POs for the purpose of selecting PAMB representatives;

(h) Maximum of six representatives from non government organizations (NGOs) selected from among themselves in a meeting duly called among all NGOs operating in the PA for the purpose of selecting PAMB representatives; and

(i) Representatives from government agencies operating within the PA as may be appointed by the above-listed members of the PAMB based on their relevance and potential contribution to the PA management. In the selection of representatives from NGOs and POs, preference shall be accorded to those organizations that are involved in the conservation and protection of the PA and in the field of development work. The representation of NGOs and POs shall be institutional, with consideration to balanced geographic representation.

*SEC.6. Term of Office of the PAMB Members.* - Every member of the PAMB shall serve for a term of three years: *Provided, however,* That such member remains connected or affiliated to the sector or office he represents. If a vacancy occurs, a new member shall be chosen in the same manner as the original selection process.

*SEC.7. Representation of the Local Government Units (LGUs) and National Government Agencies (NGAs) in the PAMB.* - Representation of the local government units (LGUs) and national government agencies (NGAs) in the PAMB shall include the duty of appraising their respective constituents, office or sector, ensuring consistency between this Act, the Local Government Code, other

relevant statutes and ordinances, and local and national development plans and projects.

SEC. 8. *Powers and Functions of the PAMB.* - The PAMB of the Agusan Marsh Protected Area shall have the following powers and functions:

(a) Issue all rules and regulations to prohibit and regulate acts that may be prejudicial to the PA and the buffer zone established herein;

(b) Establish the criteria and set fees for the issuance of permits for the activities regulated by this Act, or the management plan;

(c) Adopt rules of procedure for the conduct of business, roles and responsibilities, and discipline of the board members, and create committees as it may deem necessary, to whom its powers may be delegated;

(d) Review, approve and adopt management plans and its implementing rules and regulations (IRRs) including, but not limited to, the establishment and delineation of the buffer zone, within or beyond the technical description provided in Section 3 of this Act, and other zones and the regulated and/or prohibited activities therein such as, but not limited to, multiple use zones, buffer zones, recreational zones and strict protection zones;

(e) Oversee and evaluate the Office of the Protected Area Superintendent (PASu);

(f) Deputize interested, capable and responsible individuals for the enforcement of the laws, rules and regulations governing conduct in the PA;

(g) Accept donations, approve proposals for funding, budget allocations and exercise accountability over all funds that may accrue to the PA including, but not limited to, the Agusan Marsh Protected Area Fund;

(h) Initiate civil or administrative proceedings, file criminal complaints and take necessary legal action against individuals, associations, corporations or any entity destroying or contributing to the deterioration or destruction of the PA, in whatever degree, such as, but not limited to, the discharge of wastes or refuse which may affect the PA;

(i) Participate in all stages of the environmental impact assessment process of projects which may potentially affect the PA, and in the monitoring thereof;

(G) Review and approve or disapprove all projects and activities which may affect the PA;

(k) Identify, verify and review all tenure instrument, land claims" and issuance of permits for resource use within the PA and recommend land reclassification and proper use of resources found therein consistent with the zoning of the PA as provided in the management or successor plans;

(l) Require any government agency, office, board, private or public person to coordinate with the PAMB to achieve the objectives of this Act;

(m) Participate in the selection and designation process of the DENR in the appointment of the PASu for the Agusan Marsh Protected Area; and

(n) Establish an appropriate election process and elect from within the PAMB a responsible chairperson dedicated to the objectives of this Act. The Secretary shall exercise authority over the PAMB to ensure that it is acting within the scope of its powers and functions. In case of conflict between administrative orders of national application issued by the DENR pursuant to Republic Act No. 7586, otherwise known as the National Integrated Protected Areas Act of 1992 or the NIPAS Act, and the rules and regulations issued by the PAMB, the Secretary of the DENR shall resolve such conflict.

SEC.9. *Protected Area Superintendent (PASu) Office.* - There is hereby established a Protected Area Superintendent's Office in charge of the management, protection and administration of the PA. The PASu shall be supported by the existing personnel of the DENR. The head of office shall be the chief operating officer of the Agusan Marsh Protected Area or the PA and shall be accountable to the RED of the DENR CARAGA-XIII and the PAMB. The PASu shall have the following powers and functions:

(a) Prepare the management and successor plans as herein defined;

(b) Provide a secretariat for the PAMB which shall have the duty to supply the PAMB with all the necessary information for appropriate action;

(c) Hire and supervise the necessary personnel to support operations as the budget made available by the PAMB may allow;

(d) Establish a productive partnership with the local community, including groups interested in the achievement of the goals and objectives of the PA, and in the planning, protection and management thereof;

(e) Develop and implement a park information, education and visitor program;

(t) Enforce the laws, rules and regulations relevant to the PA, institute and file legal action independently or in collaboration with other government agencies or organizations and assist in the prosecution of offenses committed in violation of this Act;

(g) Monitor all activities within the PA regarding its conformity with the management plan;

(h) Issue PA permits based on terms, conditions and criteria established by the PAMB; and

(i) Perform such other functions as the PAMB may delegate.

SEC. 10. *Management Plan.* - The PASu Office shall prepare the Management Plan in consultation with the concerned offices of the DENR, the LGUs, local communities, NGAs and experts who may extend their services. The Management Plan shall be reviewed, approved and adopted by the PAMB, and verified and certified to by the Secretary that it conforms with all laws and rules and regulations issued by the DENR within one month from its submission. If any part or section of the Management Plan is inconsistent with existing laws or its IRRs, the Secretary shall certify the other provisions of the plan which are in accordance with law. Unless the Secretary accepts or adopts such inconsistent provisions, he shall notify the PAMB of the provisions that needs modification or revision.

The Management Plan shall serve as the mandatory guide to all activities relating to the Agusan Marsh Protected Area in accordance with the General Management Planning Strategy prepared and adopted pursuant to the NIPAS Act. The Management Plan shall contain, among others, the following:

(a) Period of applicability of the plan preferably at least five years;

(b) Key management issues;

(c) Goals and objectives of management;

(d) Site management strategy;

(e) Major management activities such as, but not limited to enforcement of laws, habitat and wildlife management, sustainable use management, infrastructure development and maintenance, fire and pest control, etc.;

(f) Establishment of zones and the regulated and/or prohibited activities therein such as, but not limited to, multipurpose use zones, buffer zones, recreational zones and strict protection zones. To avoid relocation, primary consideration shall be accorded to the traditional zones used which has proven to be sustainable and in consonance with the biodiversity and protection of the natural characteristics of the PA;

(g) Visitor management programs; and

(h) Livelihood project portfolio and investment plan development.

SEC. 11. *Subsequent Management Plans.* - The PASu shall initiate the preparation of all subsequent management plans one year before expiration of the current plan. The PASu shall, as frequently as possible, cause the announcement and publication of notices on the proposed subsequent management plan thru radio stations heard over the PA and newspapers widely

circulated therein. The PASu shall likewise post such notices in the provincial, municipal and barangay halls and in three other areas frequented by the public. Public hearings may be conducted on the subsequent management plan upon the written request of any interested party.

The adoption, revision or modification of the subsequent management plan shall follow the same procedure as provided for in the Management Plan. In the event that no subsequent management plan is approved and adopted upon the expiration of the current management plan, the latter shall continue to be in effect subject to interim modifications or amendments as may be adopted by the PAMB.

Unless otherwise specifically provided, nothing in this section and the immediately foregoing section shall be construed to limit the power of the PAMB to achieve the spirit and objective of this Act in the formulation of subsequent management plans.

The management plans shall be written for easy understanding. If it is approved and adopted in a language other than Bisaya-Cebuano, the same shall be immediately translated to either of the latter and be made readily available for perusal to the general public at the PASu Office.

SEC.12. *Ancestral Lands and Domain.* - The rights of the indigenous cultural communities to their ancestral domains shall be fully recognized. Traditional property regimes exercised by the indigenous cultural communities in accordance with their customary laws shall govern the relationships of all individuals within their communities with respect to all lands and resources found within ancestral lands. Indigenous cultural communities may apply for Certificates of Ancestral Domain Title (CADT) as provided in the Indigenous People's Rights Act of 1997 or Republic Act No. 8371.

SEC.13. *Construction and Presumptions in Favor of Indigenous Cultural Communities.* - The provisions of this Act shall be construed liberally in favor of the indigenous cultural communities. Nothing herein shall be construed to impair or diminish prior or existing rights currently enjoyed by the indigenous cultural communities as provided by existing laws.

Unless proven to be contrary to custom by clear and convincing evidence before the PAMB, the following presumptions shall govern:

(a) All lands presently occupied by the indigenous cultural communities as well as those seasonally occupied according to their culture and traditions shall be presumed to be ancestral lands;

(b) Rights and obligations within ancestral lands are presumed to be governed by customary law;

(c) Rights and obligations within ancestral lands are governed by customary law and are presumed to be held collectively by the indigenous community; and

(d) Rights and obligations within ancestral lands proven to be held by individuals under customary law are presumed to be held in trust by such individuals for the whole community.

Permits, licenses or whatever authorities required by this Act or any other statutes concerning the continued use, extraction or exploitation of forest products and/or possession or occupation of lands within the PA shall not be withheld without notice and due process from the indigenous cultural communities by the granting authority.

SEC.14. *Tenured Migrants.* - Tenured migrants are those members of households who have actually and continuously occupied the PA since June 1, 1987 and are substantially dependent on the PA for their livelihood, Tenured migrants shall be eligible to become stewards of portions of lands within allowed and designated zones. The PAMB shall identify, verify and review all tenure instrument, land claims and issuance of permits for resource use within the PA. The PAMB may also recommend the issuance of the appropriate tenure instrument consistent with the land classification, proper and allowed use of resources found therein and zoning provided in the management or subsequent management plans.

All legitimate private rights of tenured migrants within the PA shall be protected in accordance with existing laws. Nothing herein shall be construed to mean any diminution of accrued rights earned by tenured migrants. If, however, areas occupied by tenured migrants are designated as zones in which no occupation or other activities are allowed pursuant to the attainment of sustainable development, provision for their transfer to multiple use zones or buffer zones shall be accomplished through just and humane means.

In the event of termination of a tenure instrument for cause or by voluntary surrender of rights, the PASu shall take immediate steps to rehabilitate the area in order to return it to its most viable state consistent with the management plan and zoning thereof.

SEC.15. *Existing Facilities within the PA.* - Within ninety (90) days from the effectivity of this Act, all commercial facilities existing within the boundaries of the PA with a total capitalization exceeding One million pesos (P1,000,000.00) shall submit to the PAMB through the PASu the following:

- (a) Environmental Impact Assessment or similar documents;
- (b) Environmental Compliance Certificate, if any; and
- (c) Developmental Plan, if any.

Failure to submit the required information shall constitute a violation of this Act. Based on its submission, the PAMB, with the help of the DENR, shall assess such facility and its future plan and operation *vis-a-vis* the objectives of this Act. The PAMB may prescribe conditions for the operation of the facility to ensure that it does not contradict with the PA management objectives. If any of such conditions are violated, a fine of Five thousand pesos (P5,000.00) for every day of violation shall be imposed. Upon reaching a total fine of Five hundred thousand pesos (P500,000.00), regardless of duration, the PAMB, through the PASu, deputizing other government entities it may deputize, shall cause the cessation and demolition of the facility at the cost of its owners.

Existing facilities allowed to remain within the PA may be charged a reasonable fee by the PAMB based on the extent of its impact on environment and biodiversity.

SEC.16. *Utilization of Nonrenewable Resources.* - Any exploration, exploitation or utilization of nonrenewable resources within the PA shall not be allowed. Energy projects, whether renewable or otherwise, shall be permitted only through an act of Congress: *Provided*, That exploitation of renewable energy up to five megawatts capacity shall be exempt from such requirement, subject to the Environmental Impact Assessment process and such other requirements that may be required by the PAMB.

SEC. 17. *Environmental Impact Assessment System.* - Existing laws, rules and regulations relating to Environmental Impact Assessment shall be applicable to projects and activities intended for the PA. Issuance of the corresponding Environmental Compliance Certificate or the exemption thereto shall require the approval of the PAMB.

SEC.18. *Protection of Riverbanks and Water Level.* - Lands, twenty (20) meters from the riverbanks within the PA that are not part of an ancestral domain claim shall be classified as public forest. It shall not be subject to private ownership, nor shall it be reclassified, except by Congress. Alienable and disposable lands over which no rights have yet ripened shall revert to the classification of forest.

SEC. 19. *Local Government Units (LGUs).* - Local government units (LGUs) shall participate in the management of the Agusan Marsh Protected Area through representation in the PAMB. Each municipality/city with territory inside the PA shall also take the responsibility of ensuring that their watersheds and riverbanks are protected from erosion. The LGU retains its ordinance-making powers over the PA but must defer to the Management Plan, rules and regulations of the PAMB on matters relating to biodiversity conservation, protection and sustainable development.

SEC.20. *Agusan Marsh Protected Area Fund.* - There is hereby established a trust fund to be known as the Agusan Marsh Protected Area Fund for purposes of financing projects of the PA. All income generated from the operation of the

system or management of wild flora and fauna in the PA shall accrue to the fund. These income shall be derived from visitors/tourists fee, fees from permitted sale and export of flora and fauna and other resources from the PAs, proceeds from registration and lease of multiple-use areas, including tourism concessions, contributions from industries and facilities directly benefiting from the PA and such other fees and income derived from the operation of the PA.

The fund may be augmented by grants, donations, endowment from various sources, domestic or foreign, for purposes related to their functions: *Provided*, That the fund shall be deposited as a special account in the National Treasury and disbursements therefrom shall be made solely for the protection, maintenance, administration and management of the system, and duly approved projects endorsed by the PAMB in accordance with existing accounting and budgeting rules and regulations: *Provided, further*, That the fund shall not be used to cover personal services expenditures.

The LGUs shall continue to impose and collect all other fees not enumerated herein which they have traditionally collected, such as business permits, property tax and rentals of LGUs' facilities. Furthermore, LGUs may charge add-ons to fees imposed by the PAMB: *Provided*, That such add-ons shall be determined based on the contribution of the LGUs in the maintenance and protection of the PA.

Sec. 21. *Prohibited Acts.* - The following shall be the prohibitions and penalties applicable to the Agusan Marsh Protected Area:

(a) The penalties and qualifications prescribed in Article 309, on theft, and Article 310, on qualified theft, of the Revised Penal Code, depending on the value of the resources involved in connection with the prohibited act, shall be imposed upon any person who:

(1) Hunts, takes, destroys, disturbs or possesses any timber, forest product, natural growing or wild terrestrial or aquatic plants, animals, flora or fauna or products derived therefrom, or any form of extraction or use of resources within particularly identified regulated or prohibited areas or zones in the PA including private lands, without the necessary PA permit, authorization or exemption as issued or promulgated by the PAMB;

(2) Cuts, gathers, removes or collects timber or any forest products within particularly identified prohibited areas or zones in the PA including private lands, without the necessary PA permit, authorization or exemption as issued or promulgated by the PAMB;

(3) Cuts, destroys any tree, shrubs or other erosion-preventing plants or builds or introduces any structure that would cause erosion in areas within twenty (20) meters from the riverbanks within the PA;

(4) Possesses outside the PA any timber, forest products, wild terrestrial or aquatic plants, animals, flora or fauna so prohibited by the PAMB, or products derived therefrom which are ascertained to have been taken from the PA. It shall be presumed to have been taken from the PA if the subject plants, animals, flora or fauna are found in possession of persons or conveyances that have traveled to the PA in the past seventy-two (72) hours; and

(5) Hunts, collects, removes or destroys endangered or protected species, except when collection or removal is for scientific research and is so exempted from this prohibition by the PAMB.

(b) A fine of not less than One hundred thousand pesos (P100,000.00) but not more than Five hundred thousand pesos (P500,000.00) or imprisonment of not less than five years nor more than ten (10) years, or both, and the restoration and rehabilitation of the damage or when appropriate, the ejection thereof, shall be imposed upon any person who:

(1) Occupies, settles or possesses any portion of the PA; introduces improvements, agricultural or otherwise; or makes *kaingin* therein, not sanctioned by law or without the proper permit and authority as required by the PAMB;

(2) Sells, buys, offers to sell or buy any real property or the rights thereof within particularly identified regulated or prohibited areas or zones in the PA;

(3) With the use of force, intimidation, threat, deceit or taking advantage of the absence or tolerance of the rightful possessor/occupant/claimant, succeeds in occupying or possessing any portion of lands within the PA, against the will of the latter;

(4) Uses explosives, noxious substances or electricity for fishing within the PA. Discovery of explosives, noxious or poisonous substances, electro-fishing devices and paraphernalia in the possession of a fisherfolk or discovery of fish caught through explosives, noxious or poisonous substances or electricity within and nearby fishing areas or in fishing boats shall constitute *prima facie* evidence that the possessor thereof committed the act herein prohibited;

(5) Destroys, damages, mutilates, defaces or commits any acts of vandalism on any object of natural beauty, object of anthropological or cultural importance, or nonrenewable resource within the PA;

(6) Throws, discharges or dumps any substance in any area within the PA and buffer zones, that is or potentially deleterious to plants, animals or inhabitants and the ecosystem of the PA;

(7) Alters, removes, destroys or defaces any boundary markers, monuments or interpretative signs relating to the PA;

(8) Causes damage to roads, trails and pathways;

(9) Engages in any degree or form of mineral location/exploration, quarrying, or extraction;

(10) Any public officer or officer of the law, who, in dereliction of the duties of his office, shall maliciously refrain from instituting prosecution for the punishment of violators of the law, or shall tolerate the commission of offenses. Conviction of this offense shall also carry the penalty of perpetual disqualification from public office; and

(11) Any person who obstructs or hinders any enforcement of this Act, its related laws, rules and regulations.

(c) A fine of not less than Five thousand pesos (P5,000.00) nor more than One hundred thousand pesos (P 100,000.00) or imprisonment from one year to six years, or both, shall be imposed upon any person who:

(1) Violates any rules and regulations promulgated by the PAMB or its duly authorized delegate or any agreement or commitment reached before the PAMB;

(2) Deals in any product illegally derived from the PA such as, but not limited to, selling, buying, offering to sell or buy any timber, forest product, natural growing or wild terrestrial or aquatic plants, animals, flora or fauna or products derived therefrom, or any resource from within particularly identified regulated or prohibited areas or zones in the PA, without the necessary permit, authorization or exemption for the utilization and/or extraction thereof as provided by this Act and other existing laws, rules and regulations;

(3) Uses any equipment which facilitates extraction of resources, regardless of such intention or purpose, within the PA without the necessary PA permit or authorization;

(4) Leaves in exposed or in unsanitary condition debris, refuse or garbage anywhere within the PA; and

(5) Enters any portion of the PA for purposes of mountain climbing, camping, spelunking, study, research or recreational visit without the necessary permit or authorization.

If a corporation, organization, partnership or association commits the act, the penalty shall be imposed on the chief executive officer and/or board of trustees of the corporation, organization or managing partner of the partnership or association. Valuation of the damage shall take into account biodiversity and conservation considerations as well as aesthetic and scenic value. Valuation

assessed by the DENR or the concerned government agency shall be presumed correct unless otherwise proven by preponderant evidence.

Any person who shall induce another or conspire to commit any of the illegal acts prohibited in this Act or suffer their workers to commit any of the same shall be liable in the same manner as the one actually performing the act.

Sec. 22. *Administrative Confiscation and Fine.* – Administrative proceedings for violation of the foregoing prohibited acts shall proceed independently and without prejudice to judicial action. The PAMB, through the PASu, is hereby empowered to impose an administrative fine ranging from Five thousand pesos (P5,000.00) to One hundred fifty thousand pesos (P150,000.00) and/or the cancellation of permit or license issued. Decisions of the PASu may only be appealed to the PAMB.

All conveyances, vessels, equipment, paraphernalia, implements, gear, tools and similar devices shall be subject to immediate administrative confiscation by the PASu Office upon apprehension without prejudice to criminal action. Upon filing of criminal action in the regular courts, said conveyances, vessels, equipment, paraphernalia, implements, gear, tools and similar devices shall be under *custodia legis* but shall continue to be subject to administrative confiscation and may only be released to the owner pending trial by the trial court, upon consultation with the PASu and with proper consideration of the pending administrative proceedings and the potential forfeiture of the said objects.

Administrative fines collected and the proceeds of the sale of all objects 24 administratively or judicially confiscated or forfeited pursuant hereto imposed shall accrue to the Agusan Marsh Protected Area Fund. The PAMB shall promulgate the procedure for the sale.

Sec.23. *Special Prosecutor.* - Within thirty (30) days from the effectivity of this Act, the Department of Justice shall appoint a special prosecutor to whom all cases of violation of laws, rules and regulations in the PA shall be assigned. Such special prosecutor shall coordinate with the PAMB and the PASu in the performance of his/her duties and assist in the training of wardens and rangers in arrest and criminal procedure.

Sec.24. *Special Counsels.* - The PAMB may retain the services of a competent lawyer to prosecute and/or assist in the prosecution of cases under the direct control and supervision of the regular or special prosecutor and to defend the members of the PAMB, the PASu and the staff, or any person assisting in the protection, conservation and sustainable development of the PA, against any legal action related to their powers, functions and responsibilities as provided in this Act or as delegated or tasked by the PAMB.

Sec.25. *Appropriations.* - The Secretary of the DENR shall immediately include in the Department's program the funding for the proper implementation of this Act, which shall be included in the annual General Appropriations Act.

Sec. 26. *Implementing Rules and Regulations.* - Ninety (90) days after the effectivity of this Act, the DENR, in consultation with the interim PAMB, concerned LGUs and NGOs, shall promulgate the implementing rules and regulations for the effective implementation of the provisions of this Act.

Sec. 27. *Applicability of Existing Laws.* - The provisions of this Act shall be construed liberally in favor of achieving biodiversity conservation, protection and sustainable development. The provisions of the NIPAS Act and Republic Act No. 8550, otherwise known as the Philippine Fisheries Code of 1998, and existing forestry laws, and their corresponding rules and regulations not inconsistent hereto shall have suppletory effect in the implementation of this Act.

Sec. 28. *Separability Clause.* - If any part or provision of this Act is declared unconstitutional, such declaration shall not affect the other parts or provisions hereof and shall continue to be in full force and effect.

Sec.29. *Repealing Clause.* - All other existing laws, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

Sec. 30. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a national newspaper of general circulation readily available in the PA. It shall be translated in Bisaya-Cebuano by the DENR within thirty (30) days from approval hereof and shall be published once in a newspaper of general circulation in both English and Bisaya-Cebuano versions. Both English and Bisaya-Cebuano versions shall likewise be posted for three consecutive weeks starting on the day of publication in a conspicuous place in the provincial, municipal and barangay halls within the PA as well as in three other places frequented by the public.

Approved,