



HOUSE OF REPRESENTATIVES

H. No. 6710

BY REPRESENTATIVES DURANO, EVARDONE, FERRER (J.), VILLAFUERTE, YAP (A.), CUA, SALON, TEJADA, PINEDA, DIMAPORO (A.), BATOCABE, REVILLA, GONZALES (A.D.), ESCUDERO, ABUEG, BIAZON, BRAVO (A.), BELARO, AMANTE, CALDERON, CORTES, BULUT-BEGTANG, CELESTE, BILLONES, ANGARA-CASTILLO, DEL MAR, DE VERA, DE VENECIA, ANTONIO, DALIPE, DEFENSOR, DEL ROSARIO, DUAVIT, BOLILIA, BORDADO, ARENAS, CATAMCO, ALONTE, ARCILLAS, ALVAREZ (M.), CORTUNA, FERRER (L.), BAUTISTA-BANDIGAN, CASTELO, CAMINERO, MARCOLETA, PRIMICIAS-AGABAS, CHIPECO, FLORES, FLOIRENDO, DY, AGGABAO, TAMBUNTING, BAGATSING, ACOSTA, BARBERS, ALVAREZ (F.), BELMONTE (R.), GARCIA (J.E.), ABAYON AND NIETO, PER COMMITTEE REPORT NO. 490

AN ACT PROVIDING FOR ADDITIONAL PROHIBITIONS TO AND INCREASING PENALTIES FOR VIOLATIONS OF REPUBLIC ACT NO. 8484, OTHERWISE KNOWN AS THE "ACCESS DEVICES REGULATION ACT OF 1998"

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

1 SECTION 1. Section 2 of Republic Act No. 8484 is hereby
2 amended to read as follows:

3 "SEC. 2. *Declaration of Policy.* - The State
4 recognizes the recent advances in technology and the

1 widespread use of access devices in commercial
2 transactions. Toward this end, the State shall protect
3 the rights and define the liabilities of parties in such
4 commercial transactions by regulating the issuance and
5 use of access devices.

6 "THE STATE LIKEWISE ACKNOWLEDGES THAT THE
7 ADVANCES IN INFORMATION TECHNOLOGY ON ACCESS
8 DEVICES HAVE BEEN EXPLOITED BY CRIMINALS AND
9 CRIMINAL SYNDICATES IN PERPETRATING FRAUDULENT
10 ACTIVITIES THAT ULTIMATELY UNDERMINE THE TRUST
11 OF THE PUBLIC IN THE BANKING INDUSTRY. DUE TO
12 THIS DELETERIOUS EFFECT ON THE ECONOMY, THE
13 STATE DECLARES THAT THE COMMISSION OF A CRIME
14 USING ACCESS DEVICES IS A FORM OF ECONOMIC
15 SABOTAGE AND A HEINOUS CRIME AND SHALL BE
16 PUNISHABLE TO THE MAXIMUM LEVEL ALLOWED BY
17 LAW."

18 SEC. 2. Section 3 of the same Act is hereby amended to read
19 as follows:

20 "SEC. 3. *Definition of Terms.* - For purposes of this
21 Act, the terms:

22 "(a) *Access Device* - means any card, plate, code,
23 account number, electronic serial number, personal
24 identification number, or other telecommunications
25 service, equipment, or instrumental identifier, or other
26 means of account access that can be used to obtain
27 money, good, services, or any other thing of value or to
28 initiate a transfer of funds (other than a transfer
29 originated solely by paper instrument);

1 “(b) *Counterfeit Access Device* – means any access
2 device that is counterfeit, fictitious, altered, or forged, or
3 an identifiable component of an access device or
4 counterfeit access device OR ANY FRAUDULENT COPY OR
5 REPRODUCTION OF A VALID ACCESS DEVICE;

6 “x x x

7 “(k) x x x; [and]

8 “(l) x x x[.];

9 “(M) *HACKING* – REFERS TO THE UNAUTHORIZED
10 ACCESS INTO OR INTERFERENCE IN A COMPUTER
11 SYSTEM/SERVER OR INFORMATION AND
12 COMMUNICATIONS SYSTEM; OR ANY ACCESS IN ORDER
13 TO CORRUPT, ALTER, STEAL, OR DESTROY USING A
14 COMPUTER OR OTHER SIMILAR INFORMATION AND
15 COMMUNICATION DEVICES, WITHOUT THE KNOWLEDGE
16 AND CONSENT OF THE OWNER OF THE COMPUTER OR
17 INFORMATION AND COMMUNICATIONS SYSTEM,
18 INCLUDING THE INTRODUCTION OF COMPUTER VIRUSES
19 AND THE LIKE, RESULTING IN THE CORRUPTION,
20 DESTRUCTION, ALTERATION, THEFT OR LOSS OF
21 ELECTRONIC DATA MESSAGES OR ELECTRONIC
22 DOCUMENTS;

23 “(N) *ATM CARD OR AUTOMATED TELLER MACHINE*
24 *CARD* – REFERS TO ANY CARD OF WHATEVER MATERIAL
25 OR FORM INCLUDING ANY KIND OF DEBIT CARD, BUT
26 NOT A CREDIT CARD, ISSUED BY A BANK OR BUSINESS
27 ENTITY THAT ENABLES A CUSTOMER TO ACCESS AN
28 AUTOMATED TELLER MACHINE IN ORDER TO PERFORM
29 TRANSACTIONS SUCH AS DEPOSITS, CASH WITHDRAWALS

1 AND OBTAINING ACCOUNT INFORMATION. AN ATM
2 CARD SHALL BE CONSIDERED AS AN ACCESS DEVICE FOR
3 THE PURPOSES OF THIS ACT;

4 “(O) *SKIMMING* – REFERS TO A TYPE OF FRAUD
5 WHICH OCCURS WHEN AN ATM IS COMPROMISED BY A
6 SKIMMING DEVICE, A CARD READER WHICH CAN BE
7 DISGUISED TO LOOK LIKE A PART OF THE ATM AND
8 WHICH SAVES THE USERS’ CARD NUMBER AND
9 PERSONAL IDENTIFICATION NUMBER (PIN) CODE;

10 “(P) *APPLICATION* – REFERS TO A COMPUTER
11 PROGRAM DESIGNED TO PERFORM A GROUP OF
12 COORDINATED FUNCTIONS, TASKS, OR ACTIVITIES FOR
13 THE BENEFIT OF THE USER; AND

14 “(Q) *ONLINE BANKING* – REFERS TO THE USE OF
15 THE INTERNET BY BANK CUSTOMERS IN ORDER TO
16 MANAGE THEIR BANK ACCOUNTS AND PERFORM
17 ACCOUNT TRANSACTIONS.”

18 SEC. 3. Section 9 of the same Act is hereby amended to read
19 as follows:

20 “SEC. 9. *Prohibited Acts.* – The following acts shall
21 constitute access device fraud and are hereby declared
22 to be unlawful:

23 “(a) producing, using, trafficking in one or more
24 counterfeit access devices;

25 “x x x

26 “(o) x x x; [or]

27 “(p) x x x[.];

1 “(Q) SKIMMING, COPYING OR COUNTERFEITING ANY
2 CREDIT CARD, ATM OR DEBIT CARD, AND OBTAINING
3 ANY INFORMATION THEREIN WITH THE INTENT OF
4 ACCESSING THE ACCOUNT AND OPERATING THE SAME
5 WHETHER OR NOT CASH IS WITHDRAWN OR MONETARY
6 INJURY IS CAUSED BY A PERPETRATOR AGAINST THE
7 ACCOUNT HOLDER OR THE DEPOSITARY BANK;

8 “(R) POSSESSION OF ANY TYPE OF SKIMMING
9 DEVICE OR ANY ELECTRONIC GADGET OR EQUIPMENT
10 THAT IS USED TO PERPETRATE ANY OF THE FOREGOING
11 ACTS; AND

12 “(S) ACCESSING, WITH OR WITHOUT AUTHORITY,
13 ANY APPLICATION, ONLINE BANKING ACCOUNT, CREDIT
14 CARD ACCOUNT, ATM ACCOUNT, DEBIT CARD
15 ACCOUNT, IN A FRAUDULENT MANNER, REGARDLESS OF
16 WHETHER OR NOT IT WILL RESULT IN MONETARY LOSS
17 TO THE ACCOUNT HOLDER.”

18 SEC. 4. Section 10 of the same Act is hereby amended to read
19 as follows:

20 “SEC. 10. *Penalties.* – Any person committing any of
21 the acts constituting access device fraud enumerated in
22 the immediately preceding section shall be punished
23 with:

24 [(a) a fine of Ten thousand pesos (P10,000.00) or
25 twice the value obtained by the offense, whichever is
26 greater and imprisonment for not less than six (6) years
27 and not more than ten (10) years, in the case of an
28 offense under Section 9 (b)-(e), and (g)-(p) which does

1 not occur after a conviction for another offense under
2 Section 9;]

3 [(b) a fine of Ten thousand pesos (P10,000.00) or
4 twice the value obtained by the offense, and
5 imprisonment for not less than ten (10) years and for
6 not more than twelve (12) years, in the case of an
7 offense under Section 9 (a), and (f) of the foregoing
8 section, which does not occur after a conviction for
9 another offense under Section 9; and]

10 [(c) a fine of Ten thousand pesos (P10,000.00) or
11 twice the value obtained by the offense, or
12 imprisonment for not less than twelve (12) years and
13 not more than twenty (20) years, or both, in the case of
14 any offense under Section 9, which occurs after a
15 conviction for another offense under said subsection, or
16 an attempt to commit the same.]

17 **“(A) IMPRISONMENT FOR NOT LESS THAN TWELVE**
18 **(12) YEARS AND NOT MORE THAN TWENTY (20) YEARS**
19 **AND A FINE TWICE THE EQUIVALENT OF THE**
20 **AGGREGATE AMOUNT OF ALL AFFECTED OR EXPOSED**
21 **BANK ACCOUNTS, BUT THE FINE SHALL NOT BE LESS**
22 **THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00)**
23 **IN THE CASE OF AN OFFENDER WHO IS IN POSSESSION**
24 **OF TEN (10) OR MORE COUNTERFEIT ACCESS DEVICES**
25 **AND/OR UNAUTHORIZED ACCESS DEVICES AND WAS ABLE**
26 **TO ACCESS AT LEAST ONE (1) ACCOUNT OR HAD GAINED**

1 CREDIT BY THE FRAUDULENT USE OF ANY OF SUCH
2 ACCESS DEVICE IN HIS POSSESSION;

3 "(B) IMPRISONMENT FOR NOT LESS THAN SIX (6)
4 YEARS AND NOT MORE THAN TWELVE (12) YEARS AND A
5 FINE OF THREE HUNDRED THOUSAND PESOS
6 (P300,000.00) OR TWICE THE EQUIVALENT OF THE
7 AGGREGATE AMOUNT OF ALL AFFECTED OR EXPOSED
8 BANK ACCOUNTS, WHICHEVER IS HIGHER, IN THE CASE
9 OF AN OFFENDER WHO IS IN POSSESSION OF TEN (10) OR
10 MORE COUNTERFEIT ACCESS DEVICES AND/OR
11 UNAUTHORIZED ACCESS DEVICES, BUT WAS NOT
12 PROVEN TO HAVE ACCESSED ANY ACCOUNT OR HAVE
13 GAINED ANY CREDIT THROUGH ANY OF THE
14 AFOREMENTIONED ACCESS DEVICES;

15 "(C) IMPRISONMENT FOR NOT LESS THAN FOUR (4)
16 YEARS AND NOT MORE THAN SIX (6) YEARS AND A FINE
17 OF TWICE THE VALUE OF THE FRAUDULENTLY OBTAINED
18 CREDIT, WITHOUT PREJUDICE TO THE CIVIL LIABILITY
19 OF THE OFFENDER, IN THE CASE OF AN OFFENSE
20 INVOLVING FRAUDULENT USE OF A CREDIT CARD;

21 "(D) IMPRISONMENT FOR NOT LESS THAN SIX (6)
22 YEARS AND NOT MORE THAN TEN (10) YEARS AND A FINE
23 OF FIVE HUNDRED THOUSAND PESOS (P500,000.00) OR
24 TWICE THE VALUE OBTAINED BY THE OFFENDER,
25 WHICHEVER IS HIGHER, WITHOUT PREJUDICE TO THE
26 CIVIL LIABILITY OF THE OFFENDER, IN THE CASE OF AN
27 OFFENSE UNDER ITEMS (B), (C), (D), (E), (G), (H), (I),
28 (J), (K), (L), (M), (N), (O), (P), (R), AND (S) OF
29 SECTION 9 HEREOF, WHICH DOES NOT OCCUR AFTER A

1 CONVICTION FOR ANOTHER OFFENSE UNDER THE SAME
2 SECTION;

3 "(E) IMPRISONMENT FOR NOT LESS THAN TEN (10)
4 YEARS AND NOT MORE THAN TWELVE (12) YEARS AND A
5 FINE OF FIVE HUNDRED THOUSAND PESOS
6 (P500,000.00) OR TWICE THE VALUE OBTAINED BY
7 THE OFFENDER, WHICHEVER IS HIGHER, WITHOUT
8 PREJUDICE TO THE CIVIL LIABILITY OF THE OFFENDER,
9 IN THE CASE OF AN OFFENSE UNDER SECTION 9(A), (F),
10 AND (Q), WHICH DOES NOT OCCUR AFTER A CONVICTION
11 FOR ANOTHER OFFENSE UNDER SECTION 9;

12 "(F) IMPRISONMENT FOR NOT LESS THAN TWELVE
13 (12) YEARS BUT NOT MORE THAN TWENTY (20) YEARS
14 AND A FINE OF EIGHT HUNDRED THOUSAND PESOS
15 (P800,000.00) OR TWICE THE VALUE OBTAINED BY
16 THE OFFENDER, WHICHEVER IS HIGHER, WITHOUT
17 PREJUDICE TO THE CIVIL LIABILITY OF THE OFFENDER,
18 IN THE CASE OF ANY OFFENSE UNDER SECTION 9,
19 WHICH OCCURS AFTER A CONVICTION FOR ANOTHER
20 OFFENSE UNDER THE SAME SECTION, OR AN ATTEMPT
21 TO COMMIT THE SAME; AND

22 "(G) LIFE IMPRISONMENT AND A FINE OF NOT LESS
23 THAN ONE MILLION PESOS (P1,000,000.00) BUT NOT
24 MORE THAN FIVE MILLION PESOS (P5,000,000.00) IF
25 THE OFFENSE CONSTITUTES ECONOMIC SABOTAGE.
26 ECONOMIC SABOTAGE IS DEEMED COMMITTED WHEN
27 ANY OF THE PROHIBITED ACTS DESCRIBED IN

1 SECTION 9 HEREOF IS COMMITTED UNDER THE
2 FOLLOWING CIRCUMSTANCES:

3 (1) THE PROHIBITED ACT INVOLVES THE HACKING
4 OF A BANK'S SYSTEM;

5 (2) THE ACT OF SKIMMING AFFECTED FIFTY (50) OR
6 MORE ATM CARDS; OR

7 (3) THE PROHIBITED ACT AFFECTED FIFTY (50) OR
8 MORE ONLINE BANKING ACCOUNTS, CREDIT CARDS,
9 ATM CARDS, AND DEBIT CARDS."

10 SEC. 5. The last sentence of Section 14 of the same Act is
11 hereby amended to read as follows:

12 "SEC. 14. x x x

13 "A cardholder who abandons or surreptitiously
14 leaves the place of employment, business or residence
15 stated in his application for credit card, without
16 informing the credit card company of the place where he
17 could actually be found, if at the time of such
18 abandonment or surreptitious leaving, the outstanding
19 and unpaid balance is past due for at least ninety (90)
20 days and is more than [Ten thousand pesos
21 (P10,000.00)] TWO HUNDRED THOUSAND PESOS
22 (P200,000.00), shall be *prima facie* presumed to have
23 used his credit card with intent to defraud.

24 SEC. 6. Section 16 of the same Act is hereby amended
25 to read as follows:

26 "SEC. 16. *Reporting Requirements.* - All companies
27 engaged in the business of issuing access devices,

1 including banks, financing companies and other
2 financial institutions issuing access devices, AS WELL AS
3 ALL PARTNER MERCHANTS, shall CONDUCT INITIAL
4 INVESTIGATION ON ANY REPORTED ACCESS DEVICE
5 FRAUD AND furnish [annually, on or before the 31st of
6 March of the succeeding year, a report to the Credit
7 Card Association of the Philippines regarding access
8 device frauds committed against the holders of such
9 entities in the preceding calendar year, for consolidation
10 and submission to the National Bureau of
11 Investigation] REAL-TIME REPORTS ON THE RESULT
12 THEREOF TO THE NATIONAL BUREAU OF
13 INVESTIGATION (NBI) AND THE ANTI-CYBERCRIME
14 GROUP OF THE PHILIPPINE NATIONAL POLICE (PNP).
15 THE REPORT SHALL CONTAIN A NARRATION ABOUT THE
16 FRAUD COMMITTED AND AN IDENTIFICATION OF THE
17 PERPETRATOR, IF FEASIBLE. THE REPORT SHALL
18 FURTHER CONSTITUTE THE COMPLAINT NECESSARY FOR
19 THE NBI OR THE ANTI-CYBERCRIME GROUP OF THE
20 PNP TO PURSUE FURTHER INVESTIGATION AND
21 PROSECUTION OF THE FRAUD. Notwithstanding this
22 requirement, banks, financing companies and other
23 financial institutions, including their subsidiaries and
24 affiliates, issuing access devices shall continue to be
25 regulated and supervised by the *Bangko Sentral ng*
26 *Pilipinas* while other companies issuing access devices
27 shall continue to be regulated and supervised by the
28 Securities and Exchange Commission.

1 “THE NBI AND THE ANTI-CYBERCRIME GROUP OF
2 THE PNP MAY COMPEL ACCESS DEVICE ISSUERS AND
3 PARTNER MERCHANTS TO COOPERATE AND ASSIST IN
4 INVESTIGATIONS ON ACCESS DEVICE FRAUDS AS WELL
5 AS THE SUBMISSION OF ADDITIONAL DATA AS NEEDED
6 ON A CASE TO CASE BASIS.

7 “FAILURE TO COMPLY WITH THE ORDERS FROM LAW
8 ENFORCEMENT AUTHORITIES SHALL BE PUNISHED AS A
9 VIOLATION OF PRESIDENTIAL DECREE 1829 WITH
10 IMPRISONMENT OF *PRISION CORRECCIONAL* IN ITS
11 MAXIMUM PERIOD OR A FINE OF ONE HUNDRED
12 THOUSAND PESOS (P100,000.00), OR BOTH, FOR EACH
13 AND EVERY NONCOMPLIANCE WITH AN ORDER ISSUED
14 BY LAW ENFORCEMENT AUTHORITIES.”

15 SEC. 7. If any separable provision of this Act is declared
16 unconstitutional, the remaining provisions shall continue to be in
17 force.

18 SEC. 8. All laws, decrees, executive orders, rules and
19 regulations or parts thereof which are inconsistent with this Act are
20 hereby repealed, amended or modified accordingly.

21 SEC. 9. This Act shall take effect fifteen (15) days after its
22 publication in the *Official Gazette* or in a newspaper of general
23 circulation.

Approved,

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