



HOUSE OF REPRESENTATIVES

H. No. 9971

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UNDE, BUNYE, LORENZO-VILLAREAL, ESCUDERO, VALERA,
BADELLES, CALIMBAS-VILLAROSA AND BASCUG, PER COMMITTEE
REPORT NO. 685

AN ACT PROVIDING FOR THE RECOGNITION AND USE OF
ELECTRONIC COMMERCIAL AND NON-COMMERCIAL
TRANSACTIONS AND DOCUMENTS PENALTIES FOR
UNLAWFUL USE THEREOF AND FOR OTHER PURPOSES

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

PART I

SHORT TITLE AND DECLARATION OF POLICY

SECTION 1. *Short Title.* – This Act shall be known as the
“Electronic Commerce Act of 2000.”

SEC. 2. *Declaration of Policy.* – The State recognizes the vital role
of information technology and telecommunication in nation-building; the
need to create an information-friendly environment which supports and
ensures the availability, diversity and affordability of telecommunication
and information technology products and services; the primary
responsibility of the private sector in contributing investments and services
in telecommunications and information technology; the need to develop,

1 with appropriate training programs and institutional policy changes, human
2 resources for the information technology age, a labor force skilled in the
3 use of telecommunication and information technology and a population
4 capable of operating and utilizing electronic appliances and computers; its
5 obligation to facilitate the transfer and promotion of adaptation
6 technology, to ensure network security, connectivity and neutrality of
7 technology for the national benefit; and the need to marshal, organize and
8 deploy national information infrastructures, comprising in both
9 telecommunications network and strategic information services, including
10 their interconnection to the global information networks, with the
11 necessary and appropriate legal, financial, diplomatic and technical
12 framework, systems and facilities.

13 PART II

14 ELECTRONIC COMMERCE IN GENERAL

15 CHAPTER I

16 GENERAL PROVISIONS

17 SEC. 3. *Objective.* – This Act aims to facilitate domestic and
18 international dealings, transactions, arrangements, agreements, contracts,
19 exchanges and storage of information through the utilization of electronic,
20 optical and similar medium, mode, instrumentality and technology to
21 recognize the authenticity and reliability of electronic documents related to
22 such activities and to promote the universal use of electronic transaction in
23 the government and general public.

24 SEC. 4. *Application.* – This Act shall apply to any kind of data
25 message and electronic document used in the context of commercial and
26 non-commercial activities to include domestic and international dealings,

1 transactions, arrangements, agreements, contracts, exchanges and storage
2 of information.

3 SEC. 5. *Definition of Terms.* .- For purposes of this Act, the
4 following terms are defined, as follows:

5 (a) "Access" refers to entry to an open system and/or an electronic
6 document for any purpose whatsoever.

7 (b) "Addressee" refers to a person or party who is intended by the
8 originator to receive the electronic document. The term does not include a
9 person acting as an intermediary with respect to that electronic document.

10 (c) "Authentication" refers to a process for establishing the identity
11 of a person, device, an electronic document, or entity participating in or a
12 part of an information or communication system or network.

13 (d) "Computer" refers to any device or apparatus which, by
14 electronic, electro-mechanical or magnetic impulse, or by other means, is
15 capable of receiving, recording, transmitting, storing, processing,
16 retrieving, or producing information, data, figures, symbols or other modes
17 of written expression according to mathematical and logical rules or of
18 performing any one or more of those functions including two or more
19 computers carrying one or more of those functions in combination or in
20 succession or otherwise howsoever conjointly which shall be treated as a
21 single computer.

22 (e) "Cryptography" is the science of encrypting and decrypting
23 data.

24 (f) "Data message" means information generated, sent, received or
25 stored by electronic, optical or similar means including, but not limited to
26 electronic data interchange (EDI), electronic mail, telegram, telex or
27 telecopy;

28 (g) "Electronic contract" refers to a contract created and entered
29 into in accordance with the provisions of this Act.

30 (h) "Electronic document" refers to information or the
31 representation of information, data, figures, symbols or other modes of

1 written expression, described or however represented, by which a right is
2 established or an obligation extinguished, or by which a fact may be
3 proved and affirmed, which is received, recorded, transmitted, stored,
4 processed, retrieved or produced electronically.

5 (i) "Encryption" refers to the scrambling of wire or electronic
6 communications or information using mathematical formulas, codes or
7 algorithms and other similar means, in order to preserve the
8 confidentiality, integrity or authenticity of such communications or
9 information and prevent unauthorized recipients from accessing or altering
10 such communications or information.

11 (j) "Electronic signature" refers to any letter, character, numeric
12 figure or symbol, or any methodology or procedure, in electronic form,
13 attached to or logically associated with an electronic document,
14 representing and employed or adopted by a specified or nominated person
15 and used, executed or adopted by such person with the intention of
16 authenticating or approving the electronic document.

17 (k) "Hacking" or "Cracking" refers to acts including, but not
18 limited to, any unauthorized access into or interference in a computer
19 system/server; or any access in order to corrupt, destroy, alter, or steal data
20 messages using computers or other similar communication and
21 information devices.

22 (l) "Information system" refers to a system intended for and
23 capable of generating, sending, receiving, storing or otherwise processing
24 electronic documents and information.

25 (m) "Intermediary" refers to a person who in behalf of another
26 person and with respect to a particular electronic document sends, receives
27 and/or stores or provides other services in respect to that electronic
28 document.

29 (n) "Originator" refers to a person by whom, or on whose behalf,
30 the electronic document purports to have been created, generated and/or

1 sent. The term does not include a person acting as an intermediary with
2 respect to that electronic document.

3 (o) "Service provider" refers to a provider of:

4 (i) On-line services or network access, or the operator of facilities
5 therefor, including entities offering the transmission, routing, or providing
6 of connections for online communications, digital or otherwise, between
7 or among points specified by a user, of electronic documents of the user's
8 choosing; or

9 (ii) The necessary technical means by which electronic documents
10 of an originator may be stored and made accessible to a designated or
11 undesignated third party;

12 (iii) Such service providers shall have no authority to modify or
13 alter the content of the electronic document received or to make any entry
14 therein on behalf of the originator, addressee or any third party unless
15 specifically authorized to do so. and who shall retain the electronic
16 document in accordance with the specific request or as necessary for the
17 purpose of performing the services it was engaged to perform.

18 (p) "Piracy in Electronic Commerce" refers to the unauthorized
19 copying, reproduction, dissemination, distribution, importation, use,
20 removal, alteration, substitution, modification, storage, uploading,
21 downloading communication, making available to the public, or
22 broadcasting of protected material, electronic signature or copyrighted
23 works including legally protected sound recordings or phonograms or
24 information material on protected works, through the use of
25 telecommunication networks, including but not limited to the internet, in a
26 manner that infringes intellectual property rights.

CHAPTER II

LEGAL RECOGNITION OF ELECTRONIC WRITING

OR DOCUMENT AND DATA MESSAGE

SEC. 6. *Legal Recognition of Electronic Documents.* – Electronic documents shall have the legal effect, validity or enforceability as any other document or legal writing, and:

(a) Where the law requires a document to be in writing, that requirement is met by an electronic document if the said electronic document maintains its integrity and reliability and can be authenticated so as to be usable for subsequent reference, in that:

(i) The electronic document has remained complete and unaltered, apart from the addition of any endorsement and any authorized change, or any change which arises in the normal course of communication, storage and display; and

(ii) The electronic document is reliable in the light of the purpose for which it was generated and in the light of all the relevant circumstances.

(b) Paragraph (a) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the document not being presented or retained in its original form.

(c) Where the law requires that a document be presented or retained in its original form, that requirement is met by an electronic document if:

(i) There exists a reliable assurance as to the integrity of the document from the time when it was first generated in its final form; and

(ii) That document is capable of being displayed to the person to whom it is to be presented: *Provided*, That no provision of this Act shall apply to vary any and all requirements of existing laws on formalities required in the execution of documents for their validity.

SEC. 7. *Legal Recognition of Data Messages.* – Information shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of a data message purporting to give rise to such legal effect, but is merely referred to in that data message.

SEC. 8. *Retention of Electronic Documents.* – Notwithstanding any provision of law, rule or regulation to the contrary:

(a) The requirement in any provision of law that certain documents be retained in their original form is satisfied by retaining them in the form of an electronic document which:

(i) Remains accessible so as to be usable for subsequent reference;

(ii) Is retained in the format in which it was generated, sent or received, or in a format which can be demonstrated to accurately represent the electronic document generated, sent or received; and

(iii) Enables the identification of its originator and addressee, as well as the determination of the date and the time it was sent or received.

(b) The requirement referred to in paragraph (a) is satisfied by using the services of a third party, provided that the conditions set forth in subparagraphs (i), (ii) and (iii) of paragraph (a) are met.

SEC. 9. *Originator's Electronic Documents.* – An electronic document is deemed to be that of the originator if:

(a) It was sent by:

(i) The originator himself; or

(ii) A person who had the authority to act on behalf of the originator in respect of that electronic document; or

(iii) An information system programmed by or on behalf of the originator to operate automatically.

(b) It has the originator's electronic signature.

SEC. 10. *Reliance as Originator's Electronic Documents.* – An addressee is entitled to regard electronic documents as being that of the originator and to act on that assumption if:

1 (a) The addressee properly applied a procedure previously agreed
2 upon or provided in the electronic document released and sent directly by
3 the originator for that purpose; or

4 (b) The electronic document received by the addressee resulted
5 from the actions of a person whose relationship with the originator or with
6 any agent of the originator enabled that person to gain access to a method
7 used by the originator to identify the electronic document as that of the
8 originator.

9 The foregoing provisions of this section shall not apply:

10 (i) From the time the addressee receives a notice from said
11 originator that the electronic document is not his own and the addressee
12 has had reasonable time to act accordingly; or

13 (ii) At any time that the addressee knew or ought to have known,
14 had addressee exercised reasonable care or used the appropriate procedure,
15 that the electronic document was not that of the originator; or

16 (iii) If under the circumstances of the case, it is unconscionable to
17 regard the electronic document as that of the originator or for the
18 addressee to act on that assumption.

19 Except in the above mentioned or enumerated cases, if and when
20 the electronic signatures used was stolen or illegally used without the
21 permission of the owner, the addressee or the person who relied on the
22 said electronic signature shall not be held responsible nor liable for acting
23 accordingly to the instructions of the electronic document.

24 SEC. 11. *Error on Electronic Documents* – The addressee is
25 entitled to regard the electronic documents received as that which the
26 originator intended to send, and to act on that assumption, unless the
27 addressee knew or should have known, had the addressee exercised
28 reasonable care or used the appropriate procedure:

29 (a) That the transmission resulted in any error therein or in the
30 electronic document when the electronic document enters the designated
31 information system, or

1 (b) That electronic document is sent to an information system
2 which is not so designated by the addressee for the purpose.

3 SEC. 12. *Separate and Duplicate Electronic Document.* – The
4 addressee is entitled to regard each electronic document received as a
5 separate electronic document and to act on that assumption except to the
6 extent that it duplicates another electronic document and the addressee
7 knew or should have known, had it exercised reasonable care or used the
8 appropriate procedure, that the electronic document was a duplicate.

9 SEC. 13. *Agreement on Acknowledgment of Receipt of Electronic*
10 *Documents.* – The following rules shall apply where, on or before sending
11 an electronic document the originator and the addressee have agreed, or in
12 that electronic document the originator has requested, that receipt of the
13 electronic document be acknowledged:

14 (a) Where the originator has not agreed with the addressee that the
15 acknowledgment be given in a particular form or by a particular method,
16 an acknowledgment may be given by or through any communication by
17 the addressee, automated or otherwise, or any conduct of the addressee,
18 sufficient to indicate to the originator that the electronic document has
19 been received;

20 (b) Where the originator has stated that the effect or significance of
21 the electronic document is conditional on receipt of the acknowledgment
22 thereof, the electronic document is treated as though it has never been sent,
23 until the acknowledgment is received;

24 (c) Where the originator has not stated that the effect or
25 significance of the electronic document is conditional on receipt of the
26 acknowledgment, and the acknowledgment has not been received by the
27 originator within the time specified or agreed or, if no time has been
28 specified or agreed, within a reasonable time, the originator may give
29 notice to the addressee stating that no acknowledgment has been received
30 and specifying a reasonable time by which the acknowledgment must be
31 received; and

(d) If the acknowledgment is not received within the time specified in subparagraph (c), the originator may, upon notice to the addressee, treat the electronic document as though it had never been sent, or exercise any other rights it may have.

SEC. 14. *Effect and Significance of Acknowledgment of Receipt of Electronic Documents.* – Where the received acknowledgment states that the related electronic document met the technical requirements, either agreed upon or set forth in applicable standards, it shall be conclusively presumed that those requirements have been met; and, where the originator only receives the addressee's acknowledgment of receipt, it is presumed that the related electronic document was received by the addressee, but that presumption does not imply that the said electronic document corresponds to the electronic document received.

SEC. 15. *Time of Dispatch of Electronic Documents.* – Unless otherwise agreed between the originator and the addressee, the dispatch of an electronic document occurs when it enters an information system outside the control of the originator or of the person who sent the electronic document on behalf of the originator.

SEC. 16. *Time of Receipt of Electronic Documents.* – Unless otherwise agreed between the originator and the addressee, the time of receipt of an electronic document is as follows:

(a) If the addressee has designated an information system for the purpose of receiving electronic documents, receipt occurs at the time when the electronic document enters the designated information system: *Provided, however,* That if the originator and the addressee are both participants in the designated information system, receipt occurs at the time when the electronic document is retrieved by the addressee;

(b) If the electronic document is sent to an information system of the addressee that is not the designated information system, receipt occurs at the time when the electronic document is retrieved by the addressee; and

1 (c) If the addressee has not designated an information system,
2 receipt occurs when the electronic document enters an information system
3 of the addressee.

4 These rules apply notwithstanding that the place where the
5 information system is located may be different from the place where the
6 electronic document is deemed to be received.

7 SEC. 17. *Place of Dispatch and Receipt of Electronic Documents.*

8 – Unless otherwise agreed between the originator and the addressee, an
9 electronic document is deemed to be dispatched at the place where the
10 originator has its place of business and received at the place where the
11 addressee has its place of business. This rule shall apply even if the
12 originator or addressee had used a laptop or other portable device to
13 transmit or receive his electronic document. This rule shall also apply to
14 determine the tax situs of such transaction.

15 For the purpose hereof:

16 (a) If the originator or the addressee has more than one place of
17 business, the place of business is that which has the closest relationship to
18 the underlying transaction or, where there is no underlying transaction, the
19 principal place of business.

20 (b) If the originator of the addressee does not have a place of
21 business, reference is to be made to its habitual residence; or

22 (c) The “usual place of residence” in relation to a body corporate,
23 means the place where it is incorporated or otherwise legally constituted.

24 SEC. 18. *Choice of Security Methods.* – Subject to applicable laws
25 and/or rules and guidelines promulgated by the Department of Trade and
26 Industry (DTI), parties to any electronic transaction shall be free to
27 determine the type and level of electronic document security needed, and
28 to select and use or implement appropriate technological methods that suit
29 their needs.

30 SEC. 19. *Admissibility and Evidential Weight of Electronic*
31 *Documents and Data Messages.* – In any legal proceedings, nothing in the

1 application of the rules on evidence shall deny the admissibility of an
2 electronic document in evidence:

3 (a) On the sole ground that it is in electronic form; or

4 (b) On the ground that it is not in the standard written form and
5 electronic document meeting and complying with the requirements under
6 Section 7 hereof shall be the best evidence of the agreement and
7 transaction contained therein.

8 In assessing the evidential weight of an electronic document, the
9 reliability of the manner in which it was generated, stored or
10 communicated, the reliability of the manner in which its originator was
11 identified, and other relevant factor shall be given due regard.

12 CHAPTER III

13 RECOGNITION OF ELECTRONIC SIGNATURES

14 SEC. 20. *Legal Recognition of Electronic Signatures.* – An
15 electronic signature on the electronic document shall be equivalent to the
16 signature of a person on a written document if the signature is an
17 electronic signature and proved by showing that a prescribed procedure,
18 not alterable by the parties interested in the electronic document, existed
19 under which:

20 (a) A method is used to identify the party sought to be bound and
21 to indicate said party's access to the electronic document necessary for his
22 consent or approval through the electronic signature;

23 (b) Said method is reliable and appropriate for the purpose for
24 which the electronic document was generated or communicated, in the
25 light of all circumstances, including any relevant agreement;

26 (c) It is necessary for the party sought to be bound, in order to
27 proceed further with the transaction, to have executed or provided the
28 electronic signature; and

(d) The other party is authorized and enabled to verify the electronic signature and to make the decision to proceed with the transaction authenticated by the same.

SEC. 21. *Presumption Relating to Electronic Signatures.* – In any proceedings involving an electronic signature, it shall be presumed that:

(a) The electronic signature is the signature of the person to whom it correlates; and

(b) The electronic signature was affixed by that person with the intention of signing or approving the electronic document unless the person relying on the electronically signed electronic document knows or has notice of defects in or unreliability of the signature or reliance on the electronic signature is not reasonable on the circumstances.

PART III

ELECTRONIC CONTRACTS

SEC. 22. *Formation of Electronic Contracts.* – (1) Except as otherwise agreed by the parties, an offer, the acceptance of an offer and such other elements required under existing laws for the formation of contracts may be expressed in, demonstrated and proved by means of electronic documents and no contract shall be denied validity or enforceability on the sole ground that it is in the form of an electronic document, or that any or all of the elements required under existing laws for the formation of the contracts is expressed, demonstrated and proved by means of electronic documents.

(2) Electronic transactions made through networking among banks or linkages thereof with other entities or networks, and vice versa, shall be deemed consummated upon the actual dispensing of cash or the debit of one account and the corresponding credit to another, whether such transaction is initiated by the depositor or by an authorized collecting party: *Provided, That the obligation of one bank, entity, or person*

1 similarly situated to another arising therefrom shall be considered absolute
2 and shall not be subjected to the process of preference of credits.

3 SEC. 23. *Jurisdiction.* – An electronic contract may indicate the
4 jurisdiction whose laws apply to that system or whose law shall apply to
5 the contract. In the absence of such indication, jurisdiction over the
6 contract shall be acquired in accordance with existing laws.

7 PART IV

8 ELECTRONIC DOCUMENTS AND TRANSACTIONS IN GOVERNMENT

9 SEC. 24. *Government Use of Electronic Records and Signatures.* –
10 Notwithstanding any law to the contrary, all departments, bureaus, offices
11 and agencies of the government, as well as all government-owned and
12 -controlled corporations, that, pursuant to law require or accept the filing
13 of documents, require that documents be created, or retained and/or
14 submitted, issue any permit, license or certificates of registration or
15 approval or provide for the method and manner of payment or settlement
16 of fees and other obligations to the government shall:

17 (a) Accept the creation, filing or retention of such documents in the
18 form of electronic documents;

19 (b) Issue permits, licenses or approval in the form or electronic
20 documents;

21 (c) Require and/or accept payments and issue receipts
22 acknowledging such payments, through the systems using electronic
23 documents; or

24 (d) Transact the government business and/or perform
25 governmental functions using electronic documents and, for the purpose
26 are authorized to adopt and promulgate, after appropriate public hearing
27 and with due publication in newspapers of general circulation, the
28 appropriate rules, regulations or guidelines, to, among others, specify:

29 (i) The manner and format in which such electronic documents or
30 records shall be filed, created, retained or issued;

1 (ii) Where and when such electronic documents have to be signed,
2 the use of a digital signature or other secure electronic signature, the type
3 of electronic signature required;

4 (iii) The format of the electronic document and the manner the
5 electronic signature shall be affixed to the electronic documents;

6 (iv) The control processes and procedures as appropriate to ensure
7 adequate integrity, security and confidentiality of electronic documents,
8 records or payments;

9 (v) Other attributes required of electronic documents or payments;

10 (vi) The full or limited use of the documents and papers for
11 compliance with the government requirements: *Provided*, That nothing in
12 this Act shall by itself compel any department or ministry of the
13 Government, organ of State or statutory corporation to accept or issue any
14 document in the form of electronic documents until the adoption,
15 promulgation and publication of the appropriate rules, regulations, or
16 guidelines; and

17 (vii) When needed, to allow to reinvent the procedures and
18 processes to facilitate the implementation of this Act.

19 SEC. 25. *RPWEB to Promote the Use of Electronic Documents and*
20 *Data Messages in Government and to the General Public.* – There shall be
21 installed an electronic online network in accordance with Administrative
22 Order No. 332 and House of Representatives Resolution No. 890,
23 otherwise known as RPWEB, to implement Part IV of this Act to facilitate
24 the open, speedy and efficient electronic online transmission, conveyance
25 and use of electronic documents and data messages amongst all
26 government departments, agencies, bureaus, offices down to the division
27 level and to the regional and provincial offices as practicable as possible,
28 government-owned and -controlled corporations, local government units,
29 other public instrumentalities, universities, colleges and other schools and
30 universal access to the general public.

1 The RPWEB network shall serve as initial platform of the
2 Government Information Infrastructure (GII) to facilitate the electronic
3 online transmission and conveyance of government services to evolve and
4 improve by better technologies or kinds of electronic online wide area
5 networks utilizing, but not limited to, fiber optic, satellite, wireless and
6 other broadband telecommunication mediums or modes.

7 To facilitate the rapid development of the GII, the Department of
8 Transportation and Communications (DOTC), the National
9 Telecommunications Commission (NTC) and the National Computer
10 Center (NCC) are hereby directed to aggressively promote and implement
11 a policy environment and regulatory or non-regulatory framework that
12 shall lead to the substantial reduction of costs of including, but not limited-
13 to, lease lines, land, satellite and dial-up telephone access, cheap
14 broadband and wireless accessibility by government departments,
15 agencies, bureaus, offices, government-owned and -controlled
16 corporations, local government units, other public instrumentalities and the
17 general public, to include the establishment of a government website portal
18 and a domestic internet exchange system to facilitate strategic access to
19 government and amongst agencies thereof and the general public and for
20 the speedier flow of locally generated internet traffic within the
21 Philippines.

22 The physical infrastructure of cable and wireless systems for cable
23 TV and broadcast excluding programming and content and the
24 management thereof shall be considered as within the activity of
25 telecommunications for the purpose of electronic commerce and to
26 maximize the convergence of ICT in the installation of the GII.

27 SEC. 26. *Authority of the Department of Trade and Industry and*
28 *Participating Entities.* – The DTI shall direct and supervise the promotion
29 and development of electronic commerce in the country with relevant
30 government agencies, without prejudice to the provisions of Republic Act

No. 7653 (Charter of Bangko Sentral ng Pilipinas) and Republic Act No. 337, or General Banking Act, as amended.

Among others, the DTI is empowered to promulgate rules and regulations, as well as provide quality standards or issue certifications, as the case may be, and perform such other functions as may be necessary for the implementation of this Act in the area of electronic commerce to include, but not limited to, the installation of an online public information and quality and price monitoring system for goods and services aimed in protecting the interests of the consuming public availing of the advantages of this Act.

PART V

ELECTRONIC COMMERCE IN SPECIFIC AREAS

CHAPTER I

CARRIAGE OF GOODS

SEC. 27. Actions Related to contracts of Carriage of Goods. -

Without derogating from the provisions of Part Two of this Law, this Chapter applies to any action in connection with, or in pursuance of, a contract of carriage of goods, including but not limited to:

- (a) (i) furnishing the marks, number, quantity or weight of goods;
- (ii) stating or declaring the nature or value of goods;
- (iii) issuing the receipt of goods;
- (iv) confirming that goods have been loaded;
- (b) (i) notifying a person of terms and conditions of the contract;
- (ii) giving instructions to a carrier;

1 (c) (i) claiming delivery of goods;

2 (ii) authorizing release of goods;

3 (iii) giving notice of loss of, or damage to, goods;

4 (d) giving any other notice or statement in connection with the
5 performance of the contract;

6 (e) undertaking to deliver goods to a named person or a person
7 authorized to claim delivery;

8 (f) granting, acquiring, renouncing, surrendering, transferring or
9 negotiating rights in goods; and

10 (g) acquiring or transferring rights of obligations under the
11 contract.

12 SEC. 28. Transport Documents. — (1) Where the law requires that
13 any action referred to contract of carriage of goods be carried out in
14 writing or by using a paper document, that requirement is met if the action
15 is carried out by using one or more data messages.

16 (2) Paragraph (1) applies whether the requirement therein is in the
17 form of an obligation or whether the law simply provides consequences for
18 failing either to carry out the action in writing or to use a paper document;

19 (3) If a right is to be granted to, or an obligation is to be acquired
20 by one person and no other person, and if the law requires that, in order to
21 effect this, the right or obligation must be conveyed to that person by the
22 transfer, or use of a paper document, that requirement is met if the right or

1 obligation is conveyed by using one or more data message or messages
2 unique;

3 (4) For the purposes of paragraph (3), the standard of reliability
4 required shall be assessed in the light of the purpose for which the right or
5 obligation was conveyed and in the light of all the circumstances,
6 including any relevant agreement.

7 (5) Where one or more data messages are used to effect any action
8 in subparagraphs (f) and (g) of Section 29, no paper document used to
9 effect any such action is valid unless the use of data message has been
10 terminated and replaced by the use of paper documents. A paper document
11 issued in these circumstances shall contain a statement of such termination.
12 The replacement of data messages by paper documents shall not affect the
13 rights or obligations of the parties involved; and

14 (6) If a rule of law is compulsory applicable to a contract of
15 carriage of goods which is in, or is evidenced by, a paper document, that
16 rule shall not be inapplicable to such a contract of carriage of goods which
17 is in, or is evidenced by one or more data messages by reason of the fact
18 that the contract is evidenced by such data message instead of by a paper
19 document.

20 PART VI

21 MISCELLANEOUS PROVISIONS

22 SEC. 29. *Lawful Access.* – Access to an electronic file, or an
23 electronic signature of an electronic document will only be authorized to

1 and enforced in favor of the individual or entity having a legal right to the
2 possession or the use of the plaintext, electronic signature or file and solely
3 for the authorized purposes. The electronic key for identity or integrity
4 shall not be made available to any person or party without the consent of
5 the individual or entity in lawful possession of that key.

6 SEC. 30. *Obligation of Confidentiality.* – Except for the purposes
7 authorized under this Act, any person who obtained access to any
8 cryptographic key, electronic document, book, register, correspondence,
9 information, or other material pursuant to any powers conferred under this
10 Act, shall not convey to or share the same with any other person.

11 SEC. 31. *Variation by Agreement.* – As between parties involved
12 in generating, sending, receiving, storing or otherwise processing
13 electronic records, any provision of this Act may be varied by agreement
14 between and among them.

15 SEC. 32. *Extent of Liability of a Service Provider.* – Except as
16 otherwise provided in this section, no person or party shall be subject to
17 any civil or criminal liability in respect of the electronic document for
18 which the person or party acting as a service provider as defined in Section
19 5 (l), merely provides access to if such liability is founded on:

20 (a) The obligations and liabilities of the parties under the electronic
21 document;

22 (b) The making, publication, dissemination or distribution of such
23 material or any statement made in such material, including possible

1 infringement of any right subsisting in or in relation to such material:

2 *Provided, That:*

3 (i) The network service provider does not have the actual
4 knowledge, or is not aware of the facts or circumstances from which it is
5 apparent, that the making, publication, dissemination or distribution of
6 such material is unlawful or infringes any rights subsisting in or in relation
7 to such material; and

8 (ii) The network service provider does not knowingly receive a
9 financial benefit directly attributable to the unlawful or infringing activity.

10 (iii) The service provider does not directly commit any infringement
11 or other unlawful act and does not induce or cause another person or party
12 to commit any infringement or other unlawful act and/or does not benefit
13 financially from the infringing activity or unlawful act of another person or
14 party: *Provided, further, That* nothing in this Section shall affect:

15 (a) Any obligation founded on contract;

16 (b) The obligation of a network service provider as such under a
17 licensing or other regulatory regime established under written law;

18 (c) Any obligation imposed under any written law; or

19 (d) The civil liability of any party to the extent that such liability
20 forms the basis for an injunctive relief issued by a court under any law
21 requiring that the service provider take or refrain from actions necessary to
22 remove, block or deny access to any material, or to preserve evidence of a
23 violation of law.

1 SEC. 33. *Taxes on E-Commerce Transactions.* – No new e-
2 commerce taxes are hereby imposed under this Act. Existing value added
3 taxes (VAT), sales taxes and other appropriate taxes shall be collected by
4 the appropriate government agencies, local or national.

5 SEC. 34. *Penalties.* – The following acts shall be penalized by fine
6 and/or imprisonment, as follows:

7 (a) Hacking or cracking and piracy in e-commerce as defined in
8 Part II, Section 5 and any violations of this Act including theft of
9 electronic signatures or the downloading of electronic signatures without
10 the owner's authorization, forgery, alteration, infliction of damages,
11 violation of the secrecy, misuses, or other illegal use of electronic
12 documents sent, received, stored or compiled by any person, including ex-
13 director, ex-officers, ex-employees, director, officer or employee of a third
14 party, shall be punished by a minimum fine of One hundred thousand
15 pesos (P100,000.00) and a maximum commensurate to the damage
16 incurred and a mandatory imprisonment of six (6) months to three (3)
17 years;

18 (b) Violations of the Consumer Act or Republic Act No. 7394 and
19 other pertinent or relevant laws through transactions covered by or using
20 electronic documents, to be penalized with the same penalties as provided
21 in that Act.

22 SEC. 35. *Implementing Rules and Regulations.* – The DTI,
23 Department of Budget and Management (DBM) and the Central Monetary

1 Board (CMB) are hereby empowered to enforce the provisions of this Act
2 and issue implementing rules and regulations necessary, in coordination
3 with the DOTC, the NTC, the NCC, the National Information Technology
4 Council (NITC), the Commission on Audit (COA), other concerned
5 agencies and the private sector, to implement this Act within sixty (60)
6 days after its approval. Failure to issue rules and regulations shall not in
7 any manner affect the executory nature of the provisions of this Act.

8 SEC. 36. *Appropriations.* - The amount necessary to carry out the
9 provisions of Sections 24 and 25 of this Act shall be charged against any
10 available funds and/or savings under the General Appropriations Act of
11 2000 in the first year of effectivity of this Act. Thereafter, the funds need
12 for the continued implementation shall be included in the annual General
13 Appropriations Act.

14 SEC. 37. *Oversight Committee.* - There shall be a Congressional
15 Oversight Committee comprising the Committees on Trade and Industry,
16 Science and Technology and Appropriations of both the Senate and House
17 of Representatives, which shall meet at least every quarter of the first two
18 years and every semester for the third year after the approval of this Act to
19 oversee its implementation. The DTI, DBM and other government
20 agencies as may be determined by the congressional committee shall
21 provide a quarterly performance report of their actions taken in the
22 implementation of this Act for the first three (3) years.

1 SEC. 38. *Separability Clause.* – The provisions of this Act are
2 hereby declared separable and in the event of any such provision are
3 declared unconstitutional; the other provisions, which are not affected,
4 shall remain in force and effect.

5 SEC. 39. *Repealing Clause.* -- All other laws, decrees, rules and
6 regulations or parts thereof that are inconsistent with the provisions of this
7 Act are hereby repealed, amended or modified accordingly.

8 SEC. 40. *Effectivity.* – This Act shall take effect immediately after
9 its publication in the *Official Gazette* or in at least two (2) national
10 newspapers of general circulation.

Approved,

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