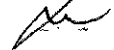


FOURTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

7 1 2

SENATE  
S.B. No. 1371

RECEIVED BY: 

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Introduced by Senator Loren Legarda

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**EXPLANATORY NOTE**

This bill seeks to penalize identity theft and misappropriation of sensitive personal information maintained in databases to uphold the right of privacy guaranteed under our Constitution.


Article II of the Philippine Constitution, our Bill of Rights, provides at least two guarantees that clearly identify zones of privacy or a person's "right to be let alone" or the "right to determine what, how much, to whom and when information about himself shall be disclosed". Section 2 guarantees "the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose." Section 3 renders inviolable the "privacy of communication and correspondence" and further cautions that "any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding." These are zones of privacy created by the Constitution that must not be subject to unreasonable government intrusion.

But while the State provides for such protection, legislation is needed to address the lack of safeguard to the right of privacy which has become more vulnerable to unnecessary intrusion and manipulation of unscrupulous individuals and entities that take advantage of the advances of modern technology.

This bill aims to address such loophole by penalizing identity theft and making it compulsory for all persons, corporations, partnerships, associations or any other legal entities organized under Philippine laws to put in place reasonable security and notification procedures and practices to prevent any breach of security and violation of the right of privacy of persons.

Under this bill, identity theft is defined as fraud committed using the sensitive personal information of another individual with the intent to commit, or to aid or abet any unlawful activity that constitutes a violation of any existing laws and result in economic loss to that individual. Identity theft is penalized with imprisonment of not exceeding ten years or a fine ranging from one hundred thousand pesos (P100,000.00) to five hundred thousand pesos (P500,000.00), or both, at the discretion of the court.

In view of the foregoing, immediate passage of this bill is earnestly requested.


  
**LOREN LEGARDA**  
Senator

FOURTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

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SENATE  
S.B. No. 1371

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Introduced by Senator Loren Legarda

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AN ACT  
PROHIBITING THE MISAPPROPRIATION OF PERSONAL INFORMATION IN  
DATABASE AND COLLECTIONS OF INFORMATION, PROVIDING A  
MECHANISM FOR PROTECTION AGAINST IDENTITY THEFT, AND FOR  
OTHER PURPOSES

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

Section 1. **Title** - This Act shall be known as the "Personal Data Protection Act of  
2007".

Section 2. **Declaration of Policy**.- It shall be the policy of the State to protect the  
zones of privacy by an individual from any form of intrusion unless excused by law and  
in accordance with customary legal process, pursuant to the constitutional guarantee of  
the right to privacy which must be upheld at all times and to the Philippines' adherence  
to the Universal Declaration of Human Rights which mandates that, "no one shall be  
subjected to arbitrary interference with his privacy" and "everyone has the right to the  
protection of the law against such interference or attacks."

Section 3. **Definition of Terms**. - As used in this Act, the following terms are  
defined as follows:

- a. Database - a collection of a large number of discrete items of information  
produced for the purpose of bringing such discrete items of information together  
in one place or through one source so that persons may access them;
- b. Identity Theft - a fraud committed using the sensitive personal information of  
another individual with the intent to commit, or to aid or abet any unlawful  
activity that constitutes a violation of any existing laws and results in economic  
loss to that individual;
- c. Information - facts, data, works of authorship, or any other intangible material  
capable of being generated or gathered;
- d. Maintain a database - update, validate, or supplement the information contained  
in the database;
- e. Making available in commerce to others - making available in commerce to a  
substantial number of members of the public or a number of persons that  
extends beyond a family and its social acquaintances or those who could  
reasonably anticipate to have access to such database without need of prior  
customary commercial relationship;

- f. Personal Information – personally identifiable information about a specific individual;
- g. Sensitive personal information – an individual’s first name and surname in combination with any one or more of the following data elements, such as those that relate, but not limited to, an individual’s financial account, credit standing, health conditions, and lineage and pedigree.

**Section 4. Prohibition Against Misappropriation of Databases.** – It shall be unlawful for any person to knowingly make available in commerce to others sensitive personal information in a database generated, gathered or maintained about a person if such act resulted to –

- a. the damage, disruption and ineffectiveness of the information generated, gathered or maintained in the database, or
- b. the prejudice of the person with whom the personal information pertains, in the absence of a prior written permission.

**Section 5. Database Security.** – Any person, corporation, partnership, association or any entity organized under Philippine laws that owns or licenses database containing sensitive personal information shall develop, implement, and maintain reasonable security and notification procedures and practices appropriate to the scope and nature of the information maintained to ensure the security and confidentiality of the personal information and protect it against any unauthorized access, destruction, use, modification or disclosure.

**Section 6. Notification Requirements.** – If such person, corporation, partnership, association or entity that owns or licenses databases containing sensitive personal information determines, after discovery and a reasonable investigation, or notification pursuant to the succeeding paragraph, that a significant risk of identity theft exists as a result of a breach of security of the database maintained by it, it shall be its duty to inform and notify, in the most expeditious manner without unnecessary delay, any individual whose personal information was compromised.

Any person, corporation, partnership, association or any entity organized under Philippine laws in possession of computerized data containing sensitive personal information that the agency or person does not own or license shall notify and cooperate with the owner or licensor of the information upon the discovery of a breach of security of the database in the most expeditious manner without unnecessary delay.

**Section 7. Penalties.** – Any person found guilty of violating Section 4, 5 and 6 of this Act shall be punished with imprisonment of not exceeding ten years or a fine ranging from one hundred thousand pesos (P100,000.00) to five hundred thousand pesos (P500,000.00), or both, at the discretion of the court.

If the offense is committed by, or in conspiracy with, a corporation, the officers and directors of the said corporation shall be jointly and solidarily liable with the corporation.

**Section 8. Separability Clause.** – The provisions of this Act are hereby declared to be separable. If any provision of this Act shall be held unconstitutional, the remainder of the Act not otherwise affected shall remain in full force and effect.

**Section 9. Repealing Clause.** – All laws, executive orders, rules and regulations. Or parts thereof, inconsistent herewith are hereby repealed or modified accordingly.

Section 10. **Effectivity Clause.** - This Act shall take effect within fifteen (15) days from its publication in at least two (2) national newspapers of general circulation.

Approved,