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SENATE

S. No. **983**

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Introduced by Senator Manuel "Lito" M. Lapid

EXPLANATORY NOTE

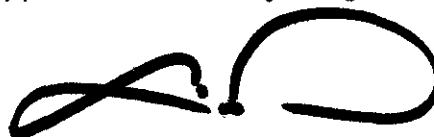
The world of information technology has such explosive potential for prosperity. The internet offers a convenient way to transact and deliver almost all consumer goods and services that can take an electronic form -- software, newspaper and reading publications, music recordings, airline tickets, shares and securities, etc. The use of computer gadgets abbreviate and facilitate exchange of transactions. In sum, IT paves the way towards real growth at an unimaginable time and has launched positive effects on productivity.

But like every technology that advances society, there can also be some drawback. In the case of the development of the IT sector and the flourishing of the utilization of computer equipment, the requirements for a strong framework defining computer-related crimes and the establishment of capabilities *vis-a-vis* law enforcement agencies to meet potential cyber-crimes are consideration that must be addressed.

The need for a special law addressing the concerns of computer owners, cyber users and the entire consumer sector as a whole heightened with the occurrence last year of the so-called "ILOVEYOU" messages or "lovebug" computer virus. The virus devastated tens of thousands of computer systems in at least twenty (20) countries, causing damage estimated at Php 2.6 billion on the first day of the infestation. Based on foreign reports, the "lovebug" shut down e-mail systems in major companies world-wide and has penetrated the Pentagon, the Central Intelligence Agency (CIA) and even the British Parliament.

This legislation is submitted and highlighted by the following important provisions, namely: (a) It defines computer fraud and the offenses covered by the term "computer-related fraudulent activities." It covers such acts as computer fraud, computer forgery, damage to computer data or computer programs, computer sabotage, unauthorized access and unauthorized interception; (b) It provides the necessary penal provisions that must be imposed upon the violators of the offense, both fine and imprisonment; (c) It accords authority to the National Security Council to conduct investigations on computer related crimes *vis-a-vis* its effects on national security.

With the situations at hand and the necessity of a relevant law to combat computer fraud and similar activities, the bill's early approval is earnestly sought.



MANUEL "LITO" M. LAPID
Senator

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AN ACT
PROVIDING PROTECTION AGAINST COMPUTER FRAUD AND ABUSES
AND OTHER CYBER-RELATED FRAUDULENT ACTIVITIES, PROVIDING
PENALTIES THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. - This Act shall be known and cited as the "**Anti-Computer Fraud and Abuses Act of 2010.**"

SEC. 2. Policy Statement. - It is hereby declared a policy of the State to create the appropriate policy and institutional environment to rationalize, accelerate the use, application and exploitation of information technology as a tool and as a development strategy for modernization and economic development.

In furtherance of the said policy statement, the government shall exert positive efforts to provide protection against all forms of computer fraud and abuses and other cyber-related fraudulent activities committed against vital government and private financial institutions.

SEC. 3. Punishable Acts. - The following acts/offenses are punishable under this Act.

- 3.1. **Computer Fraud** - The input, alteration, erasure or suppression of computer data or computer programs, or other interference in the course of data processing, that influences the result of data processing thereby causing economic loss of another person with the intent of procuring an unlawful economic gain for himself or for another persons;

- 3.2. **Computer Forgery** - The input, alteration, erasure or suppression of computer data or computer programs, or other interference in the course of data processing, in a manner or under such conditions, as prescribed national law, that would constitute the offense of forgery if it had been committed with respect to a traditional object of an offense;
- 3.3. **Damage to Computer Data or Computer Programs** – The erasure, alteration damaging, deterioration or suppression of computer data or computer programs without right;
- 3.4. **Computer Sabotage** - The input, alteration, erasure or suppression of computer data or computer programs, or interference with computer systems, with the intent to hinder the functioning of a computer or of a telecommunications system;
- 3.5. **Unauthorized Access** - The access without right to a computer system or network by infringing security measures;
- 3.6. **Unauthorized Interception** - The interception, made without right and by technical means, of communications to, from and within a computer system or network.
- 3.7. Whoever ---
- a. knowingly accesses a computer without authorization or exceeds authorized access, and by means of such conduct obtains information that has been determined by the Government pursuant to regulations requiring protection against unauthorized disclosure for reasons of national security or foreign relations, or any restricted data, with the intent or reason to believe that such information so obtained is to be used to the injury to the Philippines, or to the advantage of any foreign nation;
 - b. internationally access a computer without authorization or exceeds authorized access, and thereby obtains information contained in a financial record of a financial institution, or of a card issuer or contained in a file of a consumer reporting agency on a consumer;

- c. internationally without authorization to access any computer of a department or agency of the government of the Philippines or any public or private financial institution operating under Philippine Laws, accesses such a computer of the department or agency that is exclusively for the use of the Government of the Philippines, or in the case of a computer not exclusively for such use, it is used by or for the Government of the Philippines or, in the case of a computer not exclusively for such conduct affects the use of the Government's operation of such computer;
- d. knowingly and with intent to defraud, accesses a vital government or private financial institution or agencies as indicated in the IRR without authorization, or exceeds authorized access, and by means of such conduct further the intended fraud and obtain anything of value, unless the object of the fraud and the thing obtained consist only of the use of the computer;
- e. internationally accesses a national government computer without authorization and by means of one or more instances of such conduct alters, damages, or destroys information in any computer, or prevents authorized use of any such computer or information, and thereby ---
 - 1. causes loss to one or destroys property of value;
 - 2. modifies or impairs, or potentially modifies or impairs the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or
- f. knowingly and with intent to defraud traffics in any password or similar information through which a computer may be accessed without authorization, if such trafficking affects inter-country or foreign trade or such computer is used by the government of the Philippines in its transactions.

For purposes of this above-mentioned enumeration of offenses, the following terms shall be defined as follows:

- a. Computer shall refer to an electronic, magnetic, optical, electro-mechanical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;
- b. National government computer shall refer to a computer -
 1. exclusively for the use of a government and private financial institutions operating under Philippine laws, or, in the case of a computer not exclusively for such use, by a financial institution or any of the agencies of the government and the conduct constituting the offense the use of the financial institution's operation or the Government's operation of computer; or
 2. which is one of the two or more computers used in committing the offense, not all which are located in the same place/areas.

SEC. 4. Penal Provisions. - Any person who violates any provision of this Act shall be punishable with imprisonment for not less than eight (8) years nor more than twenty (20) years and a fine of one hundred thousand pesos (Php100,000.00) or equal in amount to the damage involved in the violation, whichever is applicable: *Provided*, That if the person violating any provisions of this Act is a juridical person, the penalty herein provided shall be imposed on its president or secretary and/or members of the board of directors or any of its officers and employees who may have directly participated in the violation.

Any government official or employee who directly commits the unlawful acts defined in this Act or is guilty of gross negligence of duty or connives with or permits the commission of any of the said unlawful or prohibited acts shall, in addition to the penalty prescribed in the preceding paragraph, be dismissed from the service with prejudice to his/her reinstatement and with disqualification from voting or being voted for in any election and from appointment to any public office.

SEC. 5. Authority of the National Security Council. - The National Security Council (NSC) shall have, in addition to other government agencies concerned,

the authority to investigate offenses under this section, particularly if the violation committed affects the national security of the country.

SEC. 6. *Miscellaneous.* - Without prejudice to the provisions of this Act, nothing herein provided shall divest or deprive courts of justice, civil or military, of their jurisdiction, in the proper cases, over civil or criminal suits or actions arising from acts or omissions under this law.

SEC. 7. *Implementing Rules and Regulations (IRR).* – The National Computer Center in cooperation with the Departments of Finance (DOF) and Department of Science and Technology (DOST), the National Security Council and other concerned agencies shall formulate the necessary rules and regulations for the effective implementation of this Act.

SEC. 8. *Separability Clause.* - If for any provision of this Act is held invalid, the other provisions of this Act not affected shall remain in full force and effect.

SEC. 9. *Repealing Clause.* - All laws, decrees, orders, rules and regulations, or portion thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 10. *Effectivity Clause.* - This Act shall take/ effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) newspaper of general publication.

Approved,