

(AS AMENDED BY THE SENATE)

CONGRESS OF THE PHILIPPINES
SEVENTEENTH CONGRESS
Second Regular Session



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) *PAYMENT CARD* – CARDS THAT CAN BE
2 USED BY CARDHOLDERS AND ACCEPTED BY
3 TERMINALS TO WITHDRAW A CASH AND/OR
4 MAKE PAYMENT FOR PURCHASE OF GOODS OR
5 SERVICES, FUND TRANSFER, AND OTHER
6 FINANCIAL TRANSACTIONS. TYPICALLY,
7 PAYMENT CARDS ARE ELECTRONICALLY
8 LINKED DEPOSITS, PREPAID, OR LOAN CREDIT
9 ACCOUNTS.

10 “[(b)] (C) *Counterfeit Access Device* – means any
11 access device that is counterfeit, fictitious, altered, or
12 forged, or an identifiable component of an access device
13 or counterfeit access device OR ANY FRAUDULENT COPY
14 OR REPRODUCTION OF A VALID ACCESS DEVICE;

15 “x x x

16 “[(k)] (L) x x x; [and]

17 “[(l)] (M) x x x[.];

18 “[(M)] (N) *HACKING* – REFERS TO THE
19 UNAUTHORIZED ACCESS INTO OR INTERFERENCE IN A
20 COMPUTER SYSTEM/SERVER OR INFORMATION AND
21 COMMUNICATIONS SYSTEM; OR ANY ACCESS IN ORDER
22 TO CORRUPT, ALTER, STEAL, OR DESTROY USING A
23 COMPUTER OR OTHER SIMILAR INFORMATION AND
24 COMMUNICATION DEVICES, WITHOUT THE KNOWLEDGE
25 AND CONSENT OF THE OWNER OF THE COMPUTER OR
26 INFORMATION AND COMMUNICATIONS SYSTEM,
27 INCLUDING THE INTRODUCTION OF COMPUTER VIRUSES

1 AND THE LIKE, RESULTING IN THE CORRUPTION,
2 DESTRUCTION, ALTERATION, THEFT OR LOSS OF
3 ELECTRONIC DATA MESSAGES OR ELECTRONIC
4 DOCUMENTS;

5 “[(N)] (O) [*ATM CARD OR AUTOMATED TELLER*
6 *MACHINE CARD*] *PAYMENT CARD* – REFERS TO ANY
7 CARD OF WHATEVER MATERIAL OR FORM INCLUDING
8 ANY KIND OF DEBIT CARD, BUT NOT A CREDIT CARD,
9 ISSUED BY A BANK OR BUSINESS ENTITY THAT ENABLES
10 A CUSTOMER TO ACCESS AN AUTOMATED TELLER
11 MACHINE IN ORDER TO PERFORM TRANSACTIONS SUCH
12 AS DEPOSITS, CASH WITHDRAWALS AND OBTAINING
13 ACCOUNT INFORMATION. A[N ATM CARD] *PAYMENT*
14 *CARD* SHALL BE CONSIDERED AS AN ACCESS DEVICE
15 FOR THE PURPOSES OF THIS ACT;

16 “[(O)] (P) *CARD SKIMMING* – REFERS TO A TYPE OF
17 FRAUD [WHICH OCCURS WHEN AN ATM IS
18 COMPROMISED BY A SKIMMING DEVICE, A CARD READER
19 WHICH CAN BE DISGUISED TO LOOK LIKE A PART OF THE
20 ATM AND WHICH SAVES THE USERS’ CARD NUMBER AND
21 PERSONAL IDENTIFICATION NUMBER (PIN) CODE]
22 WHICH INVOLVES ILLEGAL COPYING OF
23 INFORMATION FROM THE MAGNETIC STRIPE OF
24 *PAYMENT CARD* TO GAIN ACCESS TO CUSTOMER
25 ACCOUNTS;

26 “[(P)] (Q) *APPLICATION* – REFERS TO A COMPUTER
27 PROGRAM DESIGNED TO PERFORM A GROUP OF

1 COORDINATED FUNCTIONS, TASKS, OR ACTIVITIES FOR
2 THE BENEFIT OF THE USER; AND

3 "[Q] (R) *ONLINE BANKING* – REFERS TO THE USE
4 OF THE INTERNET BY BANK CUSTOMERS IN ORDER TO
5 MANAGE THEIR BANK ACCOUNTS AND PERFORM
6 ACCOUNT TRANSACTIONS."

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

9 "SEC. 9. *Prohibited Acts.* – The following acts shall
10 constitute access device fraud and are hereby declared
11 to be unlawful:

12 "(a) producing, using, trafficking in one or more
13 counterfeit access devices;

14 "x x x

15 "(o) x x x; [or]

16 "(p) x x x[.];

17 "(Q) SKIMMING, COPYING OR COUNTERFEITING ANY
18 CREDIT CARD, [ATM] PAYMENT CARD OR DEBIT
19 CARD, AND OBTAINING ANY INFORMATION THEREIN
20 WITH THE INTENT OF ACCESSING THE ACCOUNT AND
21 OPERATING THE SAME WHETHER OR NOT CASH IS
22 WITHDRAWN OR MONETARY INJURY IS CAUSED BY A
23 PERPETRATOR AGAINST THE ACCOUNT HOLDER OR THE
24 DEPOSITARY BANK;

25 "(R) PRODUCTION OR POSSESSION OF ANY
26 SOFTWARE COMPONENT SUCH AS PROGRAMS,
27 APPLICATION, OR MALWARE OR ANY
28 HARDWARE COMPONENT SUCH AS [TYPE OF]

1 SKIMMING DEVICE OR ANY ELECTRONIC GADGET OR
2 EQUIPMENT THAT IS USED TO PERPETRATE ANY OF THE
3 FOREGOING ACTS; AND

4 "(S) ACCESSING, WITH OR WITHOUT AUTHORITY,
5 ANY APPLICATION, ONLINE BANKING ACCOUNT, CREDIT
6 CARD ACCOUNT, ATM ACCOUNT, DEBIT CARD
7 ACCOUNT, IN A FRAUDULENT MANNER, REGARDLESS OF
8 WHETHER OR NOT IT WILL RESULT IN MONETARY LOSS
9 TO THE ACCOUNT HOLDER.

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

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

3 "SEC. 10. *Penalties.* – Any person committing any of
4 the acts constituting access device fraud enumerated in
5 the immediately preceding section shall be punished
6 with:

7 [(a) a fine of Ten thousand pesos (P10,000.00) or
8 twice the value obtained by the offense, whichever is
9 greater and imprisonment for not less than six (6) years
10 and not more than ten (10) years, in the case of an
11 offense under Section 9 (b)-(e), and (g)-(p) which does
12 not occur after a conviction for another offense under
13 Section 9;]

14 [(b) a fine of Ten thousand pesos (P10,000.00) or
15 twice the value obtained by the offense, and
16 imprisonment for not less than ten (10) years and for
17 not more than twelve (12) years, in the case of an
18 offense under Section 9 (a), and (f) of the foregoing
19 section, which does not occur after a conviction for
20 another offense under Section 9; and]

21 [(c) a fine of Ten thousand pesos (P10,000.00) or
22 twice the value obtained by the offense, or
23 imprisonment for not less than twelve (12) years and
24 not more than twenty (20) years, or both, in the case of
25 any offense under Section 9, which occurs after a

1 conviction for another offense under said subsection, or
2 an attempt to commit the same.]

3 “(A) IMPRISONMENT FOR NOT LESS THAN TWELVE
4 (12) YEARS AND NOT MORE THAN TWENTY (20) YEARS
5 AND A FINE TWICE THE EQUIVALENT OF THE
6 AGGREGATE AMOUNT OF ALL AFFECTED OR EXPOSED
7 BANK ACCOUNTS, BUT THE FINE SHALL NOT BE LESS
8 THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00)
9 IN THE CASE OF AN OFFENDER WHO IS IN POSSESSION
10 OF TEN (10) OR MORE COUNTERFEIT ACCESS DEVICES
11 AND/OR UNAUTHORIZED ACCESS DEVICES AND WAS ABLE
12 TO ACCESS AT LEAST ONE (1) ACCOUNT OR HAD GAINED
13 CREDIT BY THE FRAUDULENT USE OF ANY OF SUCH
14 ACCESS DEVICE IN HIS POSSESSION;

15 “(B) IMPRISONMENT FOR NOT LESS THAN SIX (6)
16 YEARS AND NOT MORE THAN TWELVE (12) YEARS AND A
17 FINE OF THREE HUNDRED THOUSAND PESOS
18 (P300,000.00) OR TWICE THE EQUIVALENT OF THE
19 AGGREGATE AMOUNT OF ALL AFFECTED OR EXPOSED
20 BANK ACCOUNTS, WHICHEVER IS HIGHER, IN THE CASE
21 OF AN OFFENDER WHO IS IN POSSESSION OF TEN (10) OR
22 MORE COUNTERFEIT ACCESS DEVICES AND/OR
23 UNAUTHORIZED ACCESS DEVICES, BUT WAS NOT
24 PROVEN TO HAVE ACCESSED ANY ACCOUNT OR HAVE
25 GAINED ANY CREDIT THROUGH ANY OF THE
26 AFOREMENTIONED ACCESS DEVICES;

27 “(C) IMPRISONMENT FOR NOT LESS THAN FOUR (4)
28 YEARS AND NOT MORE THAN SIX (6) YEARS AND A FINE
29 OF TWICE THE VALUE OF THE FRAUDULENTLY OBTAINED

1 CREDIT, WITHOUT PREJUDICE TO THE CIVIL LIABILITY
2 OF THE OFFENDER, IN THE CASE OF AN OFFENSE
3 INVOLVING FRAUDULENT USE OF A CREDIT CARD;

4 "(D) IMPRISONMENT FOR NOT LESS THAN SIX (6)
5 YEARS AND NOT MORE THAN TEN (10) YEARS AND A FINE
6 OF FIVE HUNDRED THOUSAND PESOS (P500,000.00) OR
7 TWICE THE VALUE OBTAINED BY THE OFFENDER,
8 WHICHEVER IS HIGHER, WITHOUT PREJUDICE TO THE
9 CIVIL LIABILITY OF THE OFFENDER, IN THE CASE OF AN
10 OFFENSE UNDER ITEMS (B), (C), (D), (E), (G), (H), (I),
11 (J), (K), (L), (M), (N), (O), (P), (R), [AND] (S), AND (T)
12 OF SECTION 9 HEREOF, WHICH DOES NOT OCCUR AFTER
13 A CONVICTION FOR ANOTHER OFFENSE UNDER THE
14 SAME SECTION;

15 "(E) IMPRISONMENT FOR NOT LESS THAN TEN (10)
16 YEARS AND NOT MORE THAN TWELVE (12) YEARS AND A
17 FINE OF FIVE HUNDRED THOUSAND PESOS
18 (P500,000.00) OR TWICE THE VALUE OBTAINED BY
19 THE OFFENDER, WHICHEVER IS HIGHER, WITHOUT
20 PREJUDICE TO THE CIVIL LIABILITY OF THE OFFENDER,
21 IN THE CASE OF AN OFFENSE UNDER SECTION 9(A), (F),
22 AND (Q), WHICH DOES NOT OCCUR AFTER A CONVICTION
23 FOR ANOTHER OFFENSE UNDER SECTION 9;

24 "(F) IMPRISONMENT FOR NOT LESS THAN TWELVE
25 (12) YEARS BUT NOT MORE THAN TWENTY (20) YEARS
26 AND A FINE OF EIGHT HUNDRED THOUSAND PESOS
27 (P800,000.00) OR TWICE THE VALUE OBTAINED BY
28 THE OFFENDER, WHICHEVER IS HIGHER, WITHOUT

1 PREJUDICE TO THE CIVIL LIABILITY OF THE OFFENDER,
2 IN THE CASE OF ANY OFFENSE UNDER SECTION 9,
3 WHICH OCCURS AFTER A CONVICTION FOR ANOTHER
4 OFFENSE UNDER THE SAME SECTION, OR AN ATTEMPT
5 TO COMMIT THE SAME; AND

6 "(G) LIFE IMPRISONMENT AND A FINE OF NOT LESS
7 THAN ONE MILLION PESOS (P1,000,000.00) BUT NOT
8 MORE THAN FIVE MILLION PESOS (P5,000,000.00) IF
9 THE OFFENSE CONSTITUTES ECONOMIC SABOTAGE.
10 ECONOMIC SABOTAGE IS DEEMED COMMITTED WHEN
11 ANY OF THE PROHIBITED ACTS DESCRIBED IN
12 SECTION 9 HEREOF IS COMMITTED UNDER THE
13 FOLLOWING CIRCUMSTANCES:

14 (1) THE PROHIBITED ACT INVOLVES THE HACKING
15 OF A BANK'S SYSTEM;

16 (2) THE ACT OF SKIMMING AFFECTED FIFTY (50) OR
17 MORE [ATM CARDS] PAYMENT CARDS; OR

18 (3) THE PROHIBITED ACT AFFECTED FIFTY (50) OR
19 MORE ONLINE BANKING ACCOUNTS, CREDIT CARDS,
20 [ATM CARDS] PAYMENT CARDS, AND DEBIT CARDS."

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

23 "SEC. 14. x x x

24 "A cardholder who abandons or surreptitiously
25 leaves the place of employment, business or residence
26 stated in his application for credit card, without
27 informing the credit card company of the place where he
28 could actually be found, if at the time of such

1 abandonment or surreptitious leaving, the outstanding
2 and unpaid balance is past due for at least ninety (90)
3 days and is more than [Ten thousand pesos
4 (P10,000.00)] TWO HUNDRED THOUSAND PESOS
5 (P200,000.00), shall be *prima facie* presumed to have
6 used his credit card with intent to defraud.

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

9 "SEC. 16. *Reporting Requirements.* – All companies
10 engaged in the business of issuing access devices,
11 including banks, financing companies and other
12 financial institutions issuing access devices, AS WELL AS
13 ALL PARTNER MERCHANTS, shall CONDUCT INITIAL
14 INVESTIGATION ON ANY REPORTED ACCESS DEVICE
15 FRAUD AND furnish [annually, on or before the 31st of
16 March of the succeeding year, a report to the Credit
17 Card Association of the Philippines regarding access
18 device frauds committed against the holders of such
19 entities in the preceding calendar year, for consolidation
20 and submission to the National Bureau of
21 Investigation] REAL-TIME REPORTS ON THE RESULT
22 THEREOF TO THE NATIONAL BUREAU OF
23 INVESTIGATION (NBI) AND THE ANTI-CYBERCRIME
24 GROUP OF THE PHILIPPINE NATIONAL POLICE (PNP).
25 THE REPORT SHALL CONTAIN A NARRATION ABOUT THE
26 FRAUD COMMITTED AND AN IDENTIFICATION OF THE
27 PERPETRATOR, IF FEASIBLE. THE REPORT SHALL

1 FURTHER CONSTITUTE THE COMPLAINT NECESSARY FOR
2 THE NBI OR THE ANTI-CYBERCRIME GROUP OF THE
3 PNP TO PURSUE FURTHER INVESTIGATION AND
4 PROSECUTION OF THE FRAUD. Notwithstanding this
5 requirement, banks, financing companies and other
6 financial institutions, including their subsidiaries and
7 affiliates, issuing access devices shall continue to be
8 regulated and supervised by the *Bangko Sentral ng*
9 *Pilipinas* while other companies issuing access devices
10 shall continue to be regulated and supervised by the
11 Securities and Exchange Commission.

12 [“THE NBI AND THE ANTI-CYBERCRIME GROUP OF
13 THE PNP MAY COMPEL ACCESS DEVICE ISSUERS AND
14 PARTNER MERCHANTS TO COOPERATE AND ASSIST IN
15 INVESTIGATIONS ON ACCESS DEVICE FRAUDS AS WELL
16 AS THE SUBMISSION OF ADDITIONAL DATA AS NEEDED
17 ON A CASE TO CASE BASIS.

18 “FAILURE TO COMPLY WITH THE ORDERS FROM LAW
19 ENFORCEMENT AUTHORITIES SHALL BE PUNISHED AS A
20 VIOLATION OF PRESIDENTIAL DECREE 1829 WITH
21 IMPRISONMENT OF *PRISION CORRECCIONAL* IN ITS
22 MAXIMUM PERIOD OR A FINE OF ONE HUNDRED
23 THOUSAND PESOS (P100,000.00), OR BOTH, FOR EACH
24 AND EVERY NONCOMPLIANCE WITH AN ORDER ISSUED
25 BY LAW ENFORCEMENT AUTHORITIES.”]

26 SEC. 7. If any separable provision of this Act is declared
27 unconstitutional, the remaining provisions shall continue to be in
28 force.

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

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

Approved,

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