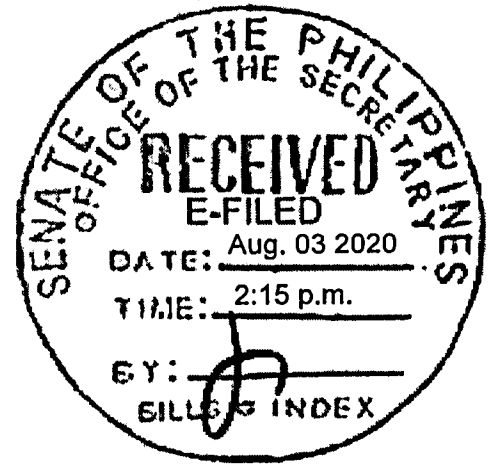


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
S. B. No. 1758

Introduced by **SENATOR IMEE R. MARCOS**

AN ACT
AMENDING REPUBLIC ACT NO. 8792 OR OTHERWISE KNOWN AS THE
"ELECTRONIC COMMERCE ACT OF 2000," AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Section 10, Article XIV 16 of the 1987 Constitution provides that, "*Science and technology are essential for national development and progress.*" Further, Article II, Section 4 of the 1987 Constitution states that, "*The prime duty of the Government is to serve and protect the people.*" Moreover, the same Article promotes economic growth and efficient public service to improve the quality of life for all.

In line with the above, Republic Act 8792 or The Electronic Commerce Act of 2000 (the "Act") aims to facilitate domestic and international transactions through the utilization of electronic mediums and technology to recognize the authenticity and reliability of electronic documents. Under the Act, electronic documents and electronic signatures are considered the legal equivalent to paper-based document counterparts. Nevertheless, despite the legal recognition of electronic documents and signatures under the Act, Philippine laws and numerous government services, require that documents be executed in a public document, i.e., that an ink-signed document be executed in the presence of a notary.

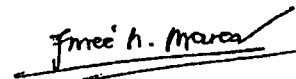
To implement the Act, on July 17, 2001, the Supreme Court promulgated its Rules on Electronic Evidence which provides that a document electronically notarized in accordance with the rules promulgated by the Supreme Court shall be considered as a public document. To date however, the Supreme Court has yet to promulgate any rules for the electronic notarization of documents.

To further exacerbate matters, the COVID-19 pandemic has necessitated that most domestic and international business transactions be conducted remotely, to prevent the continued spread of the virus. Consequently the COVID-19 pandemic threatens not

only the health of our countrymen, but also the country's economy and the government's ability to provide basic public services such as notarization. In response to the pandemic, some countries, such as the United States of America have already enacted remote online notarization (RON) laws to enable the notarization of documents via video conferencing.

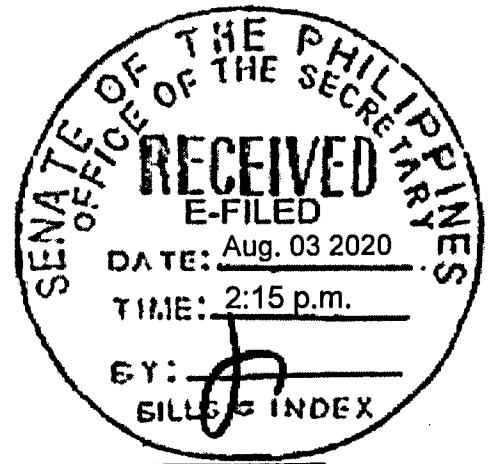
Thus, in order to address the long standing lacuna in the law, this bill seeks to amend Sec. 8 of R.A. No. 8792 to specifically recognize the validity of electronic notarization, of electronic signatures for this purpose, as well as remote notarization, through the use of electronic means, in accordance with the rules and regulations, as may be determined by the Supreme Court.

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

A handwritten signature in black ink that reads "Imee R. Marcos". The signature is written in a cursive style and is positioned above a horizontal line.

IMEE R. MARCOS

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
S. B. No. 1758

Introduced by **SENATOR IMEE R. MARCOS**

AN ACT
AMENDING REPUBLIC ACT NO. 8792 OR OTHERWISE KNOWN AS THE
"ELECTRONIC COMMERCE ACT OF 2000," AND FOR OTHER PURPOSES

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

1 SECTION 1. Section 8 of Republic Act No. 8792 otherwise known as the
2 "*Electronic Commerce Act of 2000*," is hereby amended to read, as follows:

3 "Sec. 8. Legal Recognition of Electronic Signatures - An electronic
4 signature on the electronic document shall be equivalent to the signature
5 of a person on a written document if that signature is proved by showing
6 that a prescribed procedure, not alterable by the parties interested in the
7 electronic document, existed under which -

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

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

14 c) It is necessary for the party sought to be bound, in order to
15 proceed further with the transaction, to have executed or provided the
16 electronic signature; and

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

20 ***PROVIDED THAT, AN ELECTRONIC SIGNATURE SHALL BE***
21 ***EQUIVALENT TO THE SIGNATURE OF A PERSON ON A WRITTEN***
22 ***DOCUMENT FOR PURPOSES OF ANY NOTARIAL ACT, PROVIDED***

1 **FUTHER THAT, THE EXISTENCE OF THE PRESCRIBED PROCEDURE**
2 **IN THIS SECTION SHALL ADHERE TO THE RULES AND**
3 **REGULATIONS WHICH SHALL BE DETERMINED BY THE SUPREME**
4 **COURT IN SIXTY (60) DAYS FROM THE EFFECTIVITY OF THIS**
5 **ACT."**

6 Sec. 2. A new Section 9 shall be inserted in Republic Act No. 8792 otherwise
7 known as the "*Electronic Commerce Act of 2000*," to read as follows:

8 "Sec 9. *Electronic Notarization* - Notarial acts may be conducted
9 electronically via an electronic Official seal. *Provided that*, it shall adhere
10 to the rules and regulations, as may be determined by the Supreme Court."

11 Sec. 2. A new Section 10 shall be inserted in Republic Act No. 8792 otherwise
12 known as the "*Electronic Commerce Act of 2000*," to read as follows:

13 "Sec. 10. *Remote Notarization* – Notarial acts where the signing
14 parties and witnesses, are not physically present in front of the notary
15 public, may be conducted via videoconferencing facilities. *Provided that*,
16 it shall adhere to the rules and regulations, as may be determined by the
17 Supreme Court."

18 Sec. 3. The subsequent sections of Republic Act No. 8792 otherwise known as
19 the "*Electronic Commerce Act of 2000*" are hereby renumbered accordingly.

20 Sec. 4. *Repealing Clause*. – All laws, decrees, orders, rules and regulations or
21 other issuances or parts thereof inconsistent with the provisions of this Act are hereby
22 repealed or modified accordingly.

23 Sec. 5. *Separability Clause*. – If any portion or provision of this Act is declared
24 unconstitutional, the remainder of this Act or any provision not affected thereby shall
25 remain in force and effect.

26 Sec. 6. *Effectivity*. – This Act shall take effect after fifteen (15) days following the
27 completion of its publication either in the Official Gazette or in a newspaper of general
28 circulation in the Philippines.

Approved