

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

6 JAN 19 1969

SENATE
S.B. No. 2193 RECEIVED BY: [Signature]

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The right to privacy is the "right to be let alone", and is considered "the most comprehensive of rights and the right most valued by civilized men."

In the 1968 case of *Morfe v. Mutuc*, the Supreme Court, through the late Chief Justice Enrique Fernando, held that "the right to privacy as such is accorded recognition independently of its identification with liberty; in itself, it is fully deserving of constitutional protection." Thus, while not explicitly identified in the Constitution, the right to privacy is nonetheless recognized and is deserving of protection as the other fundamental rights.

One of the more important aspects of an individual's privacy is information which may allow access to his finances. Such information deserves more protection because it can cause one's utter ruin if it falls into the wrong hands.

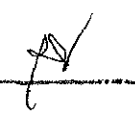
This bill seeks to protect the privacy of consumers in commercial transactions, which involve the use of credit cards and checks, by prohibiting the other parties involved from requiring the said consumers to furnish additional personal identification information not necessary to complete the commercial transaction.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
agb

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6 JAN 19 P3:49

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S.B. No. **2193**

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AN ACT
PROTECTING CONSUMER PRIVACY IN CREDIT CARD AND CHECK TRANSACTIONS

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

SECTION 1. *Short title.* – This Act shall be known as the “Consumer Privacy in Commercial Transactions Act of 2006.”

SECTION 2. *Declaration of policy.* – It is a policy of the State to promote the general welfare of the people. Pursuant to this policy, this Act seeks to protect the privacy of consumers in commercial transactions involving the use of credit cards and checks.

SECTION 3. *Definition of terms.* – For purposes of this Act:

- (A) “Check” means an instrument, draft or order issued or made for the payment of money upon any bank or other depository institution.
- (B) “Credit Card” means any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the card holder in obtaining money, goods, services, or anything else of value on credit. Credit card shall not include a check guarantee card.

SECTION 4. *Prohibition against demanding additional personal identification information in credit card transactions.* – No person, firm, partnership, corporation, or other business entity that accepts a credit card for a business transaction shall write, cause to be written, or require that a credit card holder write personal identification information, not required by the credit card issuer, on the credit card transaction form. Personal identification information shall include, but shall not be limited to, a credit card holder's address or telephone number.

The provisions of this section shall apply to all credit card transactions; provided, however, that the provisions of this section shall not be construed to prevent a person, firm, partnership, corporation, or other business entity from requesting information that is necessary for shipping, delivery, or installation of purchased merchandise or services or for a warranty when such information is provided voluntarily by a credit card holder; provided further, that the provisions of this section shall not be construed to prohibit a person, firm, partnership, corporation or other business entity from requesting one or more additional identification cards to confirm the identity of the credit card user.

SECTION 5. *Prohibition against demanding additional personal identification information in check transactions.* – No person, firm, partnership, corporation, or other business entity accepting a check in any business or commercial transaction as payment in full or in part for goods or services shall do any of the following:

- (A) Require, as a condition of acceptance of such check, that the person presenting such check provide a credit card number, or any personal identification information other than a name, address, motor vehicle operator license number, or any other identification card number of such person and telephone number, all of which may be recorded; provided, however, that the person, firm, partnership, corporation, or other business entity accepting such check may verify the signature, name, and expiration date on a credit card; provided further, that in complying with a request to provide a telephone number, the person paying with a check may provide either a home telephone number or a telephone number where such person may be called during daytime hours.
- (B) Require, as a condition of acceptance a check, or cause a person paying with such check to sign a statement agreeing to allow a credit card to be charged to cover the amount of such check.
- (C) Contact a credit card issuer or otherwise access a credit card account balance to determine if the amount of any credit available to the person paying with a check will cover the amount of such check.

(D) Require, as a condition of acceptance of the check, that a person's credit card number be recorded in connection with any part of a transaction.

(E) Record on a check, or require a person paying with a check to record on such check, any information regarding the race of such person.

Nothing in this section shall not prohibit any person from doing any of the following:

(A) Requesting, receiving, or recording a credit card number in lieu of requiring a cash deposit to secure payment in event of default, loss, damage or other occurrence; or

(B) Recording a credit card number and expiration date as a condition for cashing or accepting a check where such person has agreed with the card issuer to cash or accept checks from the issuer's card holders and where the issuer guarantees such card holder checks cashed or accepted by such person.

SECTION 6. *Penalties.* – The performance of any of the prohibited acts in the preceding Sections shall be punishable by a penalty of imprisonment of *arresto menor*, or a fine ranging from Ten Thousand Pesos (P10,000.00) to Fifty Thousand Pesos (P50,000.00), or both, at the discretion of the court, taking into consideration all attending circumstances.

If the entity responsible for the prohibited act is a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed on the entity's responsible officers, including, but not limited to, the president, vice-president, chief executive officer, general manager, managing director, or partner directly responsible therefor.

SECTION 7. *Who may bring suit.* – Any person who engages in the conduct of any trade or commerce and who suffers any loss of money or property, real or personal, as a result of the use or employment by another person who engages in any act proscribed in Sections 4 and 5 of this Act may bring an action in court, whether by way of original complaint, counterclaim, cross-claim or third-party action for damages and such equitable relief, including an injunction, as the court deems to be necessary and proper.

Such person, if he has not suffered any loss of money or property, may obtain such an injunction if it can be shown that the aforementioned unfair method of competition, act or practice may have the effect of causing such loss of money or property.

SECTION 8. *Implementing Rules and Regulations.* – The Secretary of the Department of Trade and Industry is hereby authorized to promulgate implementing rules or regulations necessary to enforce the provisions of this Act not later than one (1) year from its approval.

SECTION 9. *Separability Clause.* – If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 10. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 11. *Effectivity.* -- This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,

/rgs