

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **5036**



Introduced by HON. ROMAN T. ROMULO

EXPLANATORY NOTE

The banking industry, among others, has taken advantage of modern technology in order to offer their services in a more convenient and simplified manner. These days, the most widely accepted and commonly used way of accessing one's deposited funds is through the use of Automated Teller Machines (ATM).

However, technology has also paved the way for the proliferation of mechanisms or devices that allow access to data relevant to bank customer's account. Reports said that hundreds of millions of pesos are lost by various bank customers to syndicates who specialize in "card-skimming" or the duplication of cards and acquiring of personal identification numbers (PIN) of unsuspecting ATM cardholders. According to the Bangko Sentral ng Pilipinas (BSP), they are leaving it to the discretion of the individual banking institutions whether to refund the victims of ATM fraud.

What is more alarming would be the rampancy of incidents wherein account holders were brought to a nearby ATM and forced to withdraw money at gunpoint. Sadly, common victims are employees whose hard earned salaries are deposited by their employers to their individual ATM accounts or students who are away from their families and receive their allowances or tuition fees thru ATMs.

To provide relief to customers whose funds were withdrawn without their knowledge by means of card-skimming and so as victims of hold-ups won't need to gamble their safety, it is best if all banking institutions would offer an insurance that would cover the abovementioned circumstances. This service is already being enjoyed by millions of clients of the Philippine National Bank (PNB), the first and only bank in the Philippines that offer this kind of insurance. Our banking institutions are required to ensure not only the safety of the funds deposited, but also the safety of the persons of their clients. As such, it is highly necessary to mandate all of them to offer said insurance services to all of their clients.

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

A handwritten signature in black ink, appearing to read "Roman T. Romulo".

ROMAN T. ROMULO

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**AN ACT MANDATING ALL BANKING INSTITUTIONS TO
OFFER AN AUTOMATED TELLER MACHINE THEFT
INSURANCE TO ALL CLIENTS, PROHIBITING FRAUDULENT
CLAIMS RELATIVE THERETO, PROVIDING PENALTIES AND
FOR OTHER PURPOSES**

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

SECTION 1. *Short Title.* – This Act shall be known as “The ATM Theft Insurance Act of 2014”.

SECTION 2. *Declaration of Policy.* – The State recognizes the recent advances in modern technology and the widespread use of Automated Teller Machines (ATM) in the field of banking. Towards this end, the State shall guarantee the protection of ATM users against all forms of theft and create a mechanism for the refund of money withdrawn without the knowledge or against the will of account holders.

SECTION 3. *Definition of Terms.* – For purposes of this Act, the following terms shall mean:

- (a) AUTOMATED TELLER MACHINE (ATM) shall mean a machine at a bank or other location which enables a bank customer to perform basic banking activities such as but not limited to checking one’s balance, withdrawing or transferring funds during or even after banking hours
- (b) BANKING INSTITUTION shall mean a network of commercial, savings, and specialized banks that provide financial services, including accepting deposits and providing loans and credit, money transmission and investment facilities.
- (c) CARD-SKIMMING shall mean any electronic method of reading, capturing or stealing a cardholder’s information over the Automated Teller Machine.

SECTION 4. *ATM Theft Insurance Policy* – All banking institutions are required to offer, among its other services, an insurance policy that would guaranty customers a replacement of their money deposited that was withdrawn without their knowledge or against their will through means such as but not limited to card-skimming, robbery, theft, employment of coercion, intimidation, duress and other threats of violence upon the person of the bank customer or any person whose possession of the ATM card is duly authorized by the bank customer or owner thereof.

SECTION 5. *One Policy Per ATM Account* – Enrollment of an ATM Theft Insurance Policy shall solely accrue for the benefit of one ATM account to which the same is enrolled. This is without prejudice to the right of clients with multiple ATM account to obtain separate policies corresponding to all their other account/s.

SECTION 6. *Maximum Allowable Premium for ATM Theft Insurance* – Every banking institution is allowed to set the monthly premium to be paid by its clients who wish to avail of their ATM Theft Insurance Policy which shall in no case exceed Twenty Pesos (Php20.00) per month or Two Hundred Forty Pesos (Php240.00) per annum.

SECTION 7. *Maximum Amount of Claims per Customer in Case of Skimming, Theft and other Similar Means*– Every client who avails of the ATM Theft Insurance Policy of their banking institution/s shall be entitled to claim the amount withdrawn through card-skimming, theft or other means without the knowledge, presence and consent of the bank customer which shall in no case exceed Fifty Thousand Pesos (Php50,000.00). This is without prejudice to the right of banking institutions to offer an ATM Theft Insurance policy that would fully cover any amount over and above Fifty Thousand Pesos (Php50,000.00) that is lost through the abovementioned circumstances and means.

SECTION 8. *Maximum Amount of Claims per Customer in Cases of Robbery or Employment of Coercion, Intimidation, Duress and Other Threats of Violence Upon the Person of the Card Holder* – Every client who avails of the ATM Theft Insurance Policy of their banking institution/s shall be entitled to claim the amount withdrawn by means of robbery or employment of coercion, intimidation, duress and other threats of violence upon the person of the card holder which shall in no case exceed the maximum allowable amount that can be withdrawn in a single day imposed by the banking institution for a maximum of three (3) incidents per year.

SECTION 9. *Minimum Requirements for Filing of Claims* – Bank customers are entitled to the proceeds of their ATM Theft Insurance Policy after submitting the following requirements to the branch where they opened the account subject of the loss:

- (a) Letter request addressed to the branch manager;
- (b) Copy of the ATM Theft Insurance Policy;

- (c) Notarized affidavit of the account holder or the duly authorized card holder at the time of the loss narrating the circumstances surrounding the incident;
- (d) Police report;
- (e) Any other reasonable requirement/s as may be imposed by the banking institution appearing on the policy itself which shall in no case be used to delay the recovery of the amount or defeat the purpose of this Act.

SECTION 10. *Period for Filing Claims* – Banking institutions may include in their insurance policies a prescriptive period for filing claims against them which shall in no case be less than seven (7) working days from the discovery of the loss of the deposited funds by means of skimming, theft and other similar cases or from the date the coercion, intimidation, duress and other threats of violence against the person of the card owner or authorized card holder has ceased.

In no case shall the abovementioned prescriptive period bar the filing of claims as well as the recovery of the amount lost should the lacking requirements fall under paragraph (5) of the preceding section and are within the control of or the release of which is subject to the discretion of the banking institution.

SECTION 11. *Period for Recovery of the Amount/s Subject of the Claim* – Upon submission of the requirements provided for in the preceding section, the banking institution shall be given fifteen (15) working days to process, review the veracity of the claim/s and the compliance with the requirements and restore the amount claimed in the customer's account.

SECTION 12. *Failure to Enroll ATM Accounts* – Failure of bank customers to secure an ATM Theft Insurance Policy for their accounts shall in no way prejudice his or her right to report and request for recovery of the lost amount/s subject to governing policies of the banking institution, submission of sufficient proof and the approval of which is left to its sound discretion.

SECTION 13. *Penalties for Fraudulent Claims* – Any person who is proven to have willfully and fraudulently filed a claim, together with his co-conspirators/ and accomplice/s shall be punished with a fine of not less than Fifty Thousand Pesos (Php50,000.00) but not exceeding Three Hundred Thousand Pesos (Php300,000.00) and an imprisonment of not less than six (6) years but not more than twelve (12) years.

SECTION 14. *Liability under the Revised Penal Code and other laws* – Prosecution under this Act shall be without prejudice to any liability for violation of any provision of the Revised Penal Code or any other law.

SECTION 15. *Separability Clause* – If any separable provision of this Act be declared unconstitutional, the remaining provisions shall continue to be in force.

SECTION 16. *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 17. *Effectivity Clause* – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,