

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **5537**



Introduced by Honorable Michael L. Romero and Enrico A. Pineda

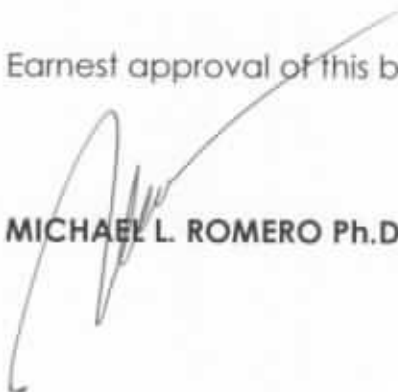
EXPLANATORY NOTE

In the Republic of the Philippines, the State recognizes the vital role of information and communications technology (**ICT**) in nation-building; the need to create an information-friendly environment which supports and ensures the availability, diversity and affordability of ICT products and services; the primary responsibility of the private sector in contributing investments and services in telecommunications and information technology; the need to develop, with appropriate training programs and institutional policy changes, human resources for the information technology age, a labor force skilled in the use of ICT and a population capable of operating and utilizing electronic appliances and computers; its obligation to facilitate the transfer and promotion of technology; to ensure network security, connectivity and neutrality of technology for the national benefit; and the need to marshal, organize and deploy national information infrastructures, comprising in both telecommunications network and strategic information services, including their interconnection to the global information networks, with the necessary and appropriate legal, financial, diplomatic and technical framework, systems and facilities.

This House Bill seeks to foster and facilitate domestic and international dealings, transactions, arrangements agreements, contracts and exchanges and storage of information through the utilization of electronic, optical and similar medium,

mode, instrumentality and technology to recognize the authenticity and reliability of electronic documents related to such activities and to promote the universal use of electronic transaction in the government and general public.

Earnest approval of this bill is hereby requested.



MICHAEL L. ROMERO Ph.D



ENRICO A. PINEDA

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AN ACT
AMENDING SECTION 33 OF REPUBLIC ACT 8792 , OTHERWISE
KNOWN AS THE "ELECTRONIC COMMERCE ACT OF 2000",
RATIONALIZING THE LAWFUL OBLIGATIONS AND
CONFIDENTIALITY CONCERNS, PROVIDING STIFFER PENALTIES,
AND FOR OTHER PURPOSES

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

SECTION 1. Article 33 of Republic Act 8792 is hereby amended as follows:

Section 33. Penalties - The following Acts, shall be penalized by fine
and/or imprisonment, as follows:

(a) Hacking or crackling with refers to unauthorized access
into or interference in a computer system/server or
information and communication system; or any access in
order to corrupt, alter, steal, or destroy using a computer or
other similar information and communication devices, without
the knowledge and consent of the owner of the computer or
information and communications system, including the
introduction of computer viruses and the like, resulting in the
corruption, destruction, alteration, theft or loss of electronic

data messages or electronic documents shall be punished by a minimum fine of not less than Two Hundred Thousand pesos **(P200,000.00)** and a maximum commensurate to the damage incurred and a mandatory imprisonment of a minimum of six **(6)** months to three **(3)** years;

(b) Piracy or the unauthorized copying, reproduction, dissemination, or distribution, importation, use, removal, alteration, substitution, modification, storage, uploading, downloading, communication, making available to the public, or broadcasting of protected material, electronic signature or copyrighted works including legally protected sound recordings or phonograms or information material on protected works, through the use of telecommunication networks, such as, but not limited to, the internet, in a manner that infringes intellectual property rights shall be punished by a minimum fine of not less than Two Hundred thousand pesos **(P200,000.00)** and a maximum commensurate to the damage incurred and a mandatory imprisonment of a minimum of six **(6)** months to three **(3)** years;

(c) Violations of the Consumer Act of Republic Act No. 7394 and other relevant to pertinent laws through transaction covered by or using electronic data messages or electronic documents, shall be penalized with the same penalties as provided in Section 33 (a)(b);

(d) Other violations of the provisions of this Act, shall be penalized with a minimum penalty of Two Hundred thousand pesos **(P200,000.00)** and a maximum penalty of One million pesos **(P1,000,000.00)** or six **(6)** years imprisonment.

SECTION 2. Lawful Access – it shall be hereby declared by the state that any Access to an electronic file, or an electronic signature of an electronic data message or electronic document shall only be authorized and enforced in favor

of the individual or entity having a legal right to the possession or the use of plaintext, electronic signature or file or solely for the authorized purposes.

The electronic key for identity or integrity shall not be made available to any person or party without the consent of the individual or entity in lawful possession of that electronic key.

SECTION 3. Obligation of Confidentiality – it shall be hereby declared by the state that *Except* for the purposes authorized under this Act, any person who obtained access to any electronic key, electronic data message or electronic document, book, register, correspondence, information, or other material pursuant to any powers conferred under this Act, shall not convey to or share the same with any other person.

SECTION 4. Implementing Rules and Regulations – the Department of Budget and Management (DBM), Department of Trade and Industry (DTI) and the Bangko Sentral ng Pilipinas (BSP) are hereby empowered to enforced the provisions of this Act and issue implementing rules and regulations necessary, in coordination with the Department of Transportation and Communications (DOTC), National Telecommunications Commission (NTC), National Computer Center (NCC), National Information Technology Council (NITC), Commission on Audit (CoA), other concerned agencies and the private sector, to implement this Act within sixty (60) days after its approval.

Failure to Issue rules and regulations shall not in any manner affect the executory nature of the provisions of this Act.

SECTION 5. Oversight Functions - There shall be a Congressional Oversight Committee composed of the Committees and Trade and Industry/Commerce, Science and Technology, Finance and Appropriations of both the Senate and House of Representatives, which shall meet at least every quarter of the first two

years and every semester for the third year after the approval of this Act to oversee its implementation. The DTI, DBM, BSP, and other government agencies as may be determined by the Congressional Committee shall provide a quarterly performance report of their actions taking in the implementation of this Act for the first three (3) years.

SECTION 6. Appropriations - The amount necessary to carry out the provisions of this Act shall be charged against any available funds and/or savings under the General Appropriations Act of 2018 in the first year of effectivity of this Act. Thereafter, the funds needed for the continued implementation shall be included in the annual General Appropriations Act (GAA) every year after.

SECTION 7. Statutory Interpretation - Unless otherwise expressly provided for, the interpretation of this Act shall give due regard to its international origin and the need to promote uniformity in its application and the observance of good faith in international trade relations. The generally accepted principles of international law and convention on electronic commerce shall likewise be considered.

SECTION 8. Variation by Agreement - As between parties involved in generating, sending, receiving, storing or otherwise processing electronic data message or electronic document, any provision of this Act may be varied by agreement between and among them.

SECTION 9. Reciprocity - All benefits, privileges, advantages or statutory rules established under this Act, including those involving practice of profession, shall be enjoyed only by parties whose country origin grants the same benefits and privileges or advantages to **Filipino citizens**.

SECTION 10. Separability Clause - The provisions of this Act are hereby declared separable and in the event of any such provision is declared unconstitutional, the other provisions, which are not affected, shall remain in force and effect.

SECTION 11. Repealing Clause - All other laws, decrees, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 12. Effectivity - This Act shall take effect immediately after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved