

**Republic of the Philippines
House of Representatives
Quezon City**

SEVENTEENTH CONGRESS

Second Regular Session

HOUSE BILL No. 5934



**Introduced by BEN P. EVARDONE
Representative, Lone District, Eastern Samar**

EXPLANATORY NOTE

The advances of information technology in the realm of electronic facilities has revolutionized the way people conduct their financial and banking transactions. Today, everyone can deposit or withdraw money from various electronic devices and media. One can likewise purchase goods, services and anything of value, invest in different kinds of monetary instruments and manage their financial wealth through electronic means. Indeed, man has attained an unexpected level of speed and convenience in conducting his financial activities.

However, with the fast advancement of technology came a new way of stealing one's money. Criminals and criminal syndicates were able to illegally access the various electronic medium of transactions and they were able to unlawfully appropriate to themselves the hard earned money of others. The acts of these criminals of illegally accessing the various electronic access devices may result to loss of hundreds of millions of money and may undermine the trust and confidence of the people on the country's financial system in general and on the banking sector in particular. Account owners, traders and other customers engaged in various electronic financial transactions who became unwilling victims of these criminals did not only suffer inconvenience, financial losses but has also caused them to doubt the integrity of the country's financial system. One of the reasons of the continued perpetration of the criminal activities described above is the existing limitations of Republic Act 8484 and the relatively light penalties that are imposed on the convicted perpetrators.

Therefore, to avert further adverse losses on the financial sector and the further deterioration of the public trust on the electronic financial and trade sectors, immediate passage of this bill is earnestly sought.


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**AN ACT AMENDING REPUBLIC ACT 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:*

SECTION 1. – Section 2 of Republic Act 8484 is hereby amended to read as follows:

"Sec. 2. Declaration of policy. – The State recognizes the recent advances in technology and the widespread use of access devices in commercial transactions. Toward this end, the State shall protect the rights and define the liabilities of parties in such commercial transactions by regulating the issuance and use of access devices.

"THE STATE LIKEWISE ACKNOWLEDGES THAT THE ADVANCES IN INFORMATION TECHNOLOGY ON ACCESS DEVICES HAVE BEEN TAKEN ADVANTAGE BY CRIMINALS AND CRIMINAL SYNDICATES IN PERPETRATING FRAUDULENT ACTIVITIES THAT ULTIMATELY UNDERMINE THE TRUST OF THE PUBLIC IN THE BANKING INDUSTRY. DUE TO THIS DELETERIOUS EFFECT ON THE ECONOMY, THE STATE DECLARES THE COMMISSION OF A CRIME USING ACCESS DEVICES AS A FORM OF ECONOMIC SABOTAGE AND A HEINOUS CRIME WITH PENALTIES TO BE IMPOSED UP TO THE MAXIMUM LEVEL ALLOWED BY LAW.

1 **SECTION 2.** Section 3 of the same Act is hereby amended to read as follows:

2 “Sec. 3. *Definition of terms.* – For purposes of this Act, the terms:

3 (a) Access Device – means any card, plate, code, account number, electronic serial
4 number, personal identification number, or other telecommunications service, equipment, or
5 instrumental identifier, or other means of account access that can be used to obtain money,
6 good, services, or any other thing of value or to initiate a transfer of funds (other than a transfer
7 originated solely by paper instrument);

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

12 (c) Unauthorized Access Device – means any access device that is stolen, lost, expired,
13 revoked, canceled, suspended, or obtained with intent to defraud;

14 (d) Access Device Fraudulently Applied for – means any access device that was applied
15 for or issued on account of the use of falsified document, false information, fictitious identities
16 and addresses, or any form of false pretense or misrepresentation;

17 (e) Consumer – means a natural person;

18 (f) Credit Card – means any card, plate, coupon book, or other credit device existing
19 for the purpose of obtaining money, goods, property, labor or services or any thing of value on
20 credit;

21 (g) Device Making or Altering Equipment – means any equipment, mechanism or
22 impression designed or primarily used for making or altering or reencoding an access device
23 or a counterfeit access device;

24 (h) Finance Charges – represent the amount to be paid by the debtor incident to the
25 extension of credit such as interest or discounts, collection fees, credit investigation fees, and
26 other service charges;

27 (i) Open-end-credit plan – means a consumer credit extended on an account pursuant
28 to a plan under which:

- 29 1) the creditor may permit the person to make purchase or obtain loans,
30 from time to time, directly from the creditor or indirectly by use of credit
31 card, or other service;
32 2) the person has the privilege of paying the balance; or
33 3) a finance charge may be computed by the creditor from time to time on
34 an unpaid balance.

1 (j) Penalty Charges – means such amount, in addition to interest, imposed on the credit
2 card holder for non-payment of an account within a prescribed period;

3 (k) Produce – includes design, alter, authenticate, duplicate or assemble;

4 (l) Trafficking – means transferring, or otherwise disposing of, to another, or obtaining
5 control of, with intent to transfer or dispose of;

6 (m) **HACKING – REFERS TO THE UNAUTHORIZED ACCESS INTO OR**
7 **INTERFERENCE IN A COMPUTER SYSTEM/SERVER OR INFORMATION AND**
8 **COMMUNICATION SYSTEM; OR ANY ACCESS IN ORDER TO CORRUPT,**
9 **ALTER, STEAL, OR DESTROY USING A COMPUTER OR OTHER SIMILAR**
10 **INFORMATION AND COMMUNICATION DEVICES, WITHOUT THE**
11 **KNOWLEDGE AND CONSENT OF THE OWNER OF THE COMPUTER OR**
12 **INFORMATION AND COMMUNICATIONS SYSTEM, INCLUDING THE**
13 **INTRODUCTION OF COMPUTER VIRUSES AND THE LIKE, RESULTING IN THE**
14 **CORRUPTION, DESTRUCTION, ALTERATION, THEFT OR LOSS OF**
15 **ELECTRONIC DATA MESSAGES OR ELECTRONIC DOCUMENTS;**

16 (n) **ATM CARD OR AUTOMATED TELLER MACHINE CARD –INCLUDES**
17 **ANY CARD OF WHATEVER MATERIAL OR FORM INCLUDING ANY KIND OF**
18 **DEBIT CARD, BUT NOT A CREDIT CARD, THAT IS ISSUED BY A BANK OR**
19 **BUSINESS ENTITY WITH THE INTENTION OF ACCESSING ANY MACHINE FOR**
20 **THE DISBURSEMENT OF MONEY, LOADING ANY CREDIT TO ANY UTILITY**
21 **OR GIVING OR GRANTING ACCESS TO A CUSTOMER FOR AN AMOUNT OF**
22 **MONEY, SERVICE, GOODS OR ANYTHING OF VALUE. AN ATM CARD SHALL**
23 **BE CONSIDERED AS AN ACCESS DEVICE FOR THE PURPOSES OF THIS ACT;**

24 (o) **SKIMMING – A TYPE OF FRAUD WHICH OCCURS WHEN AN ATM IS**
25 **COMPROMISED BY A SKIMMING DEVICE, A CARD READER WHICH CAN BE**
26 **DISGUISED TO LOOK LIKE A PART OF THE ATM MACHINE AND WHICH**
27 **SAVES THE USERS' CARD NUMBER AND PIN CODE;**

28 (p) **APPLICATION – REFERS TO A COMPUTER PROGRAM DESIGNED TO**
29 **PERFORM A GROUP OF COORDINATED FUNCTIONS, TASKS, OR ACTIVITIES**
30 **FOR THE BENEFIT OF THE USER; AND**

31 (q) **ONLINE BANKING – REFERS TO THE USE OF THE INTERNET BY**
32 **BANK CUSTOMERS IN ORDER TO MANAGE THEIR BANK ACCOUNTS AND**
33 **PERFORM ACCOUNT TRANSACTIONS.”**
34

1 **SECTION 3.** Section 9 of the same Act is hereby amended to read as follows:

2 “Sec. 9. *Prohibited Acts.* – The following acts shall constitute access device fraud and
3 are hereby declared to be unlawful:

4 (a) producing, using, trafficking in one or more counterfeit access devices;

5 (b) trafficking in one or more unauthorized access devices or access devices
6 fraudulently applied for;

7 (c) using, with intent to defraud, an unauthorized access device;

8 (d) using an access device fraudulently applied for;

9 (e) possessing one or more counterfeit access devices or access devices fraudulently
10 applied for;

11 (f) producing, trafficking in, having control or custody of, or possessing device-making
12 or altering equipment without being in the business or employment, which lawfully deals with
13 the manufacture, issuance, or distribution of such equipment;

14 (g) inducing, enticing, permitting or in any manner allowing another, for consideration
15 or otherwise to produce, use, traffic in counterfeit access devices, unauthorized access devices
16 or access devices fraudulently applied for;

17 (h) multiple imprinting on more than one transaction record, sales slip or similar
18 document, thereby making it appear that the device holder has entered into a transaction other
19 than those which said device holder had lawfully contracted for, or submitting, without being
20 an affiliated merchant, an order to collect from the issuer of the access device, such extra sales
21 slip through an affiliated merchant who connives therewith, or, under false pretenses of being
22 an affiliated merchant, present for collection such sales slips, and similar documents;

23 (i) disclosing any information imprinted on the access device, such as, but not limited
24 to, the account number or name or address of the device holder, without the latter's authority
25 or permission;

26 (j) obtaining money or anything of value through the use of an access device, with intent
27 to defraud or with intent to gain and fleeing thereafter;

28 (k) having in one's possession, without authority from the owner of the access device
29 or the access device company, an access device, or any material, such as slips, carbon paper,
30 or any other medium, on which the access device is written, printed, embossed, or otherwise
31 indicated;

32 (l) writing or causing to be written on sales slips, approval numbers from the issuer of
33 the access device of the fact of approval, where in fact no such approval was given, or where,
34 if given, what is written is deliberately different from the approval actually given;

1 (m) making any alteration, without the access device holder's authority, of any amount
2 or other information written on the sales slip;

3 (n) effecting transaction, with one or more access devices issued to another person or
4 persons, to receive payment or any other thing of value;

5 (o) without the authorization of the issuer of the access device, soliciting a person for
6 the purpose of:

7 1) offering an access device; or

8 2) selling information regarding or an application to obtain an access
9 device;

10 (p) without the authorization of the credit card system member or its agent, causing or
11 arranging for another person to present to the member or its agent, for payment, one or more
12 evidence or records of transactions made by credit card;

13 **(q) SKIMMING, COPYING OR COUNTERFEITING ANY CREDIT CARD,**
14 **ATM OR DEBIT CARD, AND OBTAINING ANY INFORMATION THEREIN WITH**
15 **THE INTENT OF ACCESSING THE ACCOUNT AND OPERATING THE SAME**
16 **WHETHER OR NOT CASH IS WITHDRAWN OR MONETARY INJURY IS CAUSED**
17 **BY A PERPETRATOR AGAINST THE ACCOUNT HOLDER OR THE DEPOSITARY**
18 **BANK; OR**

19 **(r) POSSESSION OF ANY TYPE OF SKIMMING DEVICE OR ANY**
20 **ELECTRONIC GADGET OR EQUIPMENT THAT IS USED TO PERPETRATE ANY**
21 **OF THE FOREGOING ACTS.**

22 **(s) ACCESSING, WITH OR WITHOUT AUTHORITY, ANY APPLICATION,**
23 **ONLINE BANKING ACCOUNT, CREDIT CARD ACCOUNT, ATM ACCOUNT,**
24 **DEBIT CARD ACCOUNT, IN A FRAUDULENT MANNER, REGARDLESS OF**
25 **WHETHER OR NOT IT WILL RESULT IN MONETARY LOSS TO THE ACCOUNT**
26 **HOLDER."**

27
28 **SECTION 4.** Section 10 of the same Act is hereby amended to read as follows:

29 "Sec. 10. *Penalties.* – Any person committing any of the acts constituting access device
30 fraud enumerated in the immediately preceding section shall be punished with:

31 ~~(a) a fine of Ten thousand pesos (P10,000.00) or twice the value obtained by the offense,~~
32 ~~whichever is greater and imprisonment for not less than six (6) years and not more than ten~~
33 ~~(10) years, in the case of an offense under Section 9 (b) (c), and (g) (p) which does not occur~~
34 ~~after a conviction for another offense under Section 9;~~

1 ~~(b) a fine of Ten thousand pesos (P10,000.00) or twice the value obtained by the~~
2 ~~offense, and imprisonment for not less than ten (10) years and for not more than twelve (12)~~
3 ~~years, in the case of an offense under Section 9 (a), and (f) of the foregoing section, which does~~
4 ~~not occur after a conviction for another offense under Section 9; and~~

5 ~~(c) a fine of Ten thousand pesos (P10,000.00) or twice the value obtained by the offense,~~
6 ~~or imprisonment for not less than twelve (12) years and not more than twenty (20) years, or~~
7 ~~both, in the case of any offense under Section 9, which occurs after a conviction for another~~
8 ~~offense under said subsection, or an attempt to commit the same.~~

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

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

27 **(c) IMPRISONMENT FOR NOT LESS THAN FOUR (4) YEARS AND NOT**
28 **MORE THAN SIX (6) YEARS AND A FINE OF TWICE THE VALUE OF THE**
29 **FRAUDULENTLY OBTAINED CREDIT, WITHOUT PREJUDICE TO THE CIVIL**
30 **LIABILITY OF THE OFFENDER, IN THE CASE OF AN OFFENSE INVOLVING**
31 **FRAUDULENT USE OF A CREDIT CARD;**

32 **(d) IMPRISONMENT FOR NOT LESS THAN SIX (6) YEARS AND NOT**
33 **MORE THAN TEN (10) YEARS, AND A FINE OF FIVE HUNDRED THOUSAND**
34 **PESOS (P500,000.00) OR TWICE THE VALUE OBTAINED BY THE OFFENDER,**

1 WHICHEVER IS HIGHER, WITHOUT PREJUDICE TO THE CIVIL LIABILITY OF
2 THE OFFENDER, IN THE CASE OF AN OFFENSE UNDER SECTION 9 (B), (C), (D),
3 (E), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (R) AND (S), WHICH DOES NOT
4 OCCUR AFTER A CONVICTION FOR ANOTHER OFFENSE UNDER SECTION 9;

5 (e) IMPRISONMENT FOR NOT LESS THAN TEN (10) YEARS AND NOT
6 MORE THAN TWELVE (12) YEARS, AND A FINE OF FIVE HUNDRED THOUSAND
7 PESOS (P500,000.00) OR TWICE THE VALUE OBTAINED BY THE OFFENDER,
8 WHICHEVER IS HIGHER, WITHOUT PREJUDICE TO CIVIL LIABILITY OF THE
9 OFFENDER, IN THE CASE OF AN OFFENSE UNDER SECTION 9 (A), (F), AND (Q),
10 WHICH DOES NOT OCCUR AFTER A CONVICTION FOR ANOTHER OFFENSE
11 UNDER SECTION 9;

12 (f) IMPRISONMENT FOR NOT LESS THAN TWELVE (12) YEARS AND NOT
13 MORE THAN TWENTY (20) YEARS, AND A FINE OF EIGHT HUNDRED
14 THOUSAND PESOS (P800,000.00) OR TWICE THE VALUE OBTAINED BY THE
15 OFFENDER, WHICHEVER IS HIGHER, WITHOUT PREJUDICE TO CIVIL
16 LIABILITY OF THE OFFENDER, IN THE CASE OF ANY OFFENSE UNDER
17 SECTION 9, WHICH OCCURS AFTER A CONVICTION FOR ANOTHER OFFENSE
18 UNDER SAID SUBSECTION, OR AN ATTEMPT TO COMMIT THE SAME; AND

19 (g) THE PENALTY OF LIFE IMPRISONMENT AND A FINE OF NOT LESS
20 THAN ONE MILLION PESOS (P1,000,000.00) NOR MORE THAN FIVE MILLION
21 PESOS (P5,000,000.00) SHALL BE IMPOSED UPON AN OFFENSE INVOLVING
22 ECONOMIC SABOTAGE.

23 THERE IS ECONOMIC SABOTAGE:

24 (1) IF ANY OF THE PROHIBITED ACTS IN SECTION 9 INVOLVE
25 HACKING OF A BANK SYSTEM; OR

26 (2) IF THE SKIMMING AFFECTED FIFTY (50) OR MORE ATM CARDS;

27 OR

28 (C) IF THE OFFENSE UNDER SECTION 9 (s) AFFECTED FIFTY (50) OR
29 MORE ONLINE BANKING ACCOUNTS, CREDIT CARDS, ATM
30 CARDS, AND DEBIT CARDS."

31
32 SECTION 5. *ALIENS, NON RESIDENT FILIPINOS AND OFFENDERS WITH*
33 *ATTEMPT OR CAPACITY TO ABSCOND.* – ALIENS, NON RESIDENT FILIPINOS OR

1 **FILIPINO OFFENDERS WHO HAVE THE CAPACITY TO ABSCOND OR HAD**
2 **ATTEMPTED TO ABSCOND SHALL NOT BE ALLOWED TO POST BAIL.**

3
4 **SECTION 6. *Separability clause.*** – If any separable provision of this Act be declared
5 unconstitutional, the remaining provisions shall continue to be in force.

6
7 **SECTION 7. *Repealing clause.*** – All laws, decrees, executive orders, rules and
8 regulations or parts thereof which are inconsistent with this Act are hereby repealed, amended
9 or modified accordingly

10
11 **SECTION 8. *Effectivity clause.*** – This Act shall take effect fifteen (15) days after its
12 publication in the Official Gazette or in a newspaper of general circulation.

13 **Approved,**