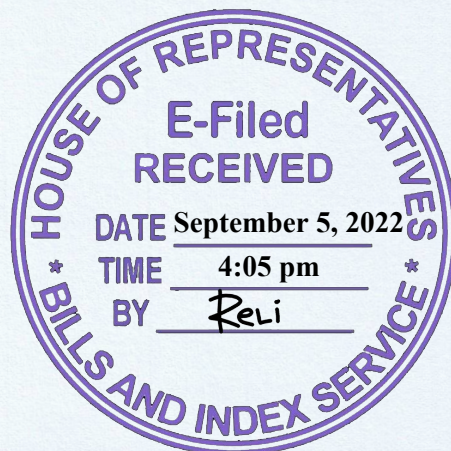


Republic of the Philippines
HOUSE OF REPRESENTATIVES

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4437



Introduced by Representative Rex Gatchalian

AN ACT
PROHIBITING ALL PUBLIC TELECOMMUNICATIONS ENTITIES AND
INFORMATION AND COMMUNICATIONS TECHNOLOGY PROVIDERS
FROM IMPOSING AN EXPIRATION PERIOD ON THE VALIDITY OF
PREPAID LOAD CREDITS AND THEIR FORFEITURE

EXPLANATORY NOTE

In this digital age, mobile phones became a necessary daily tool. This became very evident especially during the COVID-19 pandemic. The lockdown and physical distancing measures imposed forced different sectors to shift into a digital platform. In 2021, a study in Nueva Ecija University of Science and Technology showed that 55.68% students used mobile data to attend their virtual classes.¹ Because broadband is yet to become more accessible and affordable for Filipinos, Philippine internet use is highly mobile.²

NTC-DICT-DTI Joint Memorandum Circular No. 05-12-2017 was issued prescribing a one (1) year expiration period for prepaid loads of whatever amount,³ *but*, excluded from its coverage are: (1) prepaid loads purchased for promos; and (2) bucket of services with specific period of use duly approved by the DTI and/or the NTC.⁴

¹ A. Esteban, Jr. and M. Cruz, Digital Divide in Times of Pandemic among Teacher Education Students (2021). See <https://www.scirp.org/journal/paperinformation.aspx?paperid=108423#ref34>.

² Anna Bueno and Jessamine Pacis, As COVID-19 forces me to move online, who is left behind? (2020). See <https://www.cnnphilippines.com/life/culture/2020/5/20/internet-access-pandemic.html>.

³ Section 3, NTC-DICT-DTI Joint Memorandum Circular No. 05-12-2017.

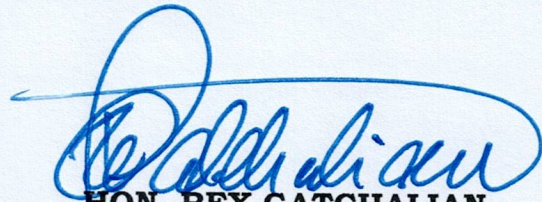
⁴ Section 4, *Id.*

In this day and time when telecommunications has been revolutionized by technology to a higher new level, every person wants to stay connected. A scheme that imposes the expiration of prepaid credits and its forfeiture is anti-poor, unfair and discriminating to those whose hard-earned money matters the most. The amount that you load up, you expect of course to consume, but a system that is devised to forfeit the value of the loaded amount upon the expiration of a certain period only further enriches the service providers and puts the consumer at their mercy.

This bill proposes to make it a prohibited act to impose an expiration period on the validity of prepaid load credits and their eventual forfeiture, *however purchased and in whatever denomination*. This should give the consumer his money's full worth. It is important that the government find a balance between protecting the rights of a consumer where it does not also unduly hinder the industry from its gainful market or a return of their investment.

In this wise, the telecommunications industry has at present an approximated 153 million prepaid subscribers⁵, a faithful legion, a giant leap from the mere nine (9) million in 2009. These 142 million who clearly believe in the benefits of this digital revolution and who has now found the prepaid load credit an essential commodity in their everyday life and to whom this legislation we believe should largely be afforded.

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



HON. REX GATCHALIAN
Representative
1st District, Valenzuela City

⁵ Combination of Globe and PLDT Mobile Subscribers Data as per their submitted SEC Form 17 1Q22.

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CREDITS AND THEIR FORFEITURE

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

1 **SECTION 1.** *Short Title.* – This Act shall be known as the “*Prepaid Load*
2 *Forever Act of 2022*”.

3
4 **SEC. 2.** *Declaration of Policy.* – It is hereby declared the policy of the State to
5 recognize the vital role of information and communications technology in nation-
6 building. It likewise recognizes the primary role of the private sector as an engine of
7 economic growth and guarantees the right of individuals and private entities to own,
8 establish, and operate economic enterprises. However, as the Constitution provides
9 that the use of property bears a social function, the right of private entities is subject
10 to the duty of the State to intervene when the common good so requires – including
11 protecting the interests of consumers, promoting their general welfare, and
12 establishing standards of conduct of business and industry. Towards this end, the
13 State shall implement measures to protect the consumer against unfair and
14 unconscionable sales acts and practices, and provide information and education to
15 facilitate sound choice and proper exercise of consumer rights.

16
17 **SEC. 3.** *Definition of Terms.* – As used in this Act:

- 18 a. *Active Prepaid Account* refers to a number with any activity involving voice,
19 short messaging system (SMS) or text, mobile data, value added services
20 (VAS), or any other telecommunications service;

- 1 b. *Dormant Prepaid Account* refers to a number without any activity involving
2 voice, short messaging system (SMS) or text, mobile data, value added
3 services (VAS), or any other telecommunications service within a period of
4 one year;
- 5 c. *Information and Communications Technology or ICT* refers to the totality of
6 electronic means to access, create, collect, store, process, receive, transmit,
7 present, and disseminate information;
- 8 d. *Information and Communications Technology or ICT Provider* refers to any
9 entity in the ICT sector, which includes telecommunications and broadcast
10 information operators, ICT equipment manufacturers, multimedia content
11 developers and providers, ICT solution providers, internet service providers,
12 ICT training institutions, software developers, and ICT-ES providers;
- 13 e. *Prepaid* refers to the type of account that requires its owners to purchase
14 load credits before telecommunications services can be used;
- 15 f. *Prepaid Load Credits* refers to the monetary value or the consumable
16 amount loaded via prepaid card or electronic load to a device that enables a
17 subscriber to use telecommunications services;
- 18 g. *Prepaid Subscriber* refers to any person, natural or juridical, who avails of
19 telecommunications services from a public telecommunications service from
20 a public telecommunications entity and/or information and communication
21 technology provider by purchasing credit in advance of service use. The
22 purchased credit is used to pay for telecommunications services at the point
23 the service is accessed or consumed;
- 24 h. *Public Telecommunications Entity or PTE* refers to any duly authorized public
25 telecommunications entity that offers voice, short messaging system (SMS)
26 or text, mobile data, value added services (VAS), or any other
27 telecommunications services to the public for a fee; and
- 28 i. *Telecommunications* refers to any process which enables a
29 telecommunications entity to relay and receive voice, data, electronic
30 messages, written or printed matter, fixed or moving pictures, words, music
31 or visible or audible signals, or any control signals of any design and for any
32 purpose by wire, radio, or other electromagnetic, spectral, optical or
33 technological means.
- 34

35 **SEC. 4. Prohibited Acts.** – The following shall constitute prohibited acts of any
36 PTE or ICT provider and are hereby declared to be unlawful:

- a. Imposition of an expiration period on the validity of unused prepaid load credits, whether purchased via prepaid cards or electronic load;
- b. Forfeiture of such prepaid load credits on an active prepaid account, save for the purpose of availing of the mobile number portability service; and
- c. Refusal to give a refund to any prepaid subscriber whose load credits were forfeited without any valid cause.

In view of paragraph b, a prepaid account that has become dormant shall be deducted one peso for every day of inactivity from its remaining load credits until such credits are fully consumed.

SEC. 5. Penal Provision. – Any director, officer, employee, or agent of a PTE or ICT provider providing prepaid telecommunications services who shall violate any of the acts mentioned under Sec. 4 hereof shall, upon conviction, be subject to the penalty of a fine of not less than One Hundred Thousand Pesos (PhP 100,000.00) but not to exceed One Million Pesos (PhP 1,000,000.00) or imprisonment of not less than two (2) years but not more than six (6) years, or both, upon the discretion of the court.

If the violation was committed by or in the interest of a juridical person duly licensed to engage in business in the Philippines, the following penalties shall be imposed:

- a. First offense – a fine of Five Hundred Thousand Pesos (PhP 500,000.00);
- b. Second offense – a fine of One Million Pesos (PhP 1,000,000.00) plus suspension of license to engage in business for a period of thirty (30) days; and
- c. Third offense – a fine of Two Million Pesos (PhP 2,000,000.00) plus immediate revocation of license to engage in business.

SEC. 6. Implementing Rules and Regulations (IRR). – Within ninety (90) days from the effectivity of this Act, the National Telecommunications Commission shall coordinate with the Department of Information and Communications Technology and the Department of Trade and Industry to promulgate rules and regulations and other issuances as may be necessary to ensure the effective implementation of this Act, including the issuance of proper and adequate information dissemination of its contents and benefits to the general public.

The IRR issued pursuant to this Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

1
2 **SEC. 7. *Separability Clause.*** – If any provision of this Act is held invalid or
3 unconstitutional, the other provisions not affected thereby shall remain in full force
4 and effect.

5
6 **SEC. 8. *Repealing Clause.*** – All laws, decrees, executive orders, proclamations,
7 rules and regulations, and issuances, or parts thereof which are inconsistent with
8 the provisions of this Act, are hereby repealed, amended or modified accordingly.

9
10 **SEC. 9. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
11 publication in the Official Gazette or in any newspaper of general circulation.

Approved,