



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



Seventeenth Congress
First Regular Session

HOUSE BILL NO. 5723

Introduced by Honorable Ramon "Red" H. Durano VI

EXPLANATORY NOTE

This bill seeks to amend Republic Act NO. 8484, otherwise known as an act regulating the issuance and use of access devices, prohibiting fraudulent acts committed relative thereto, providing penalties, and for other purposes.

The rampant clamor of the banking sector and the business sectors of the proliferation of cases involving Bank fraud particularly ATM fraud has greatly affected the integrity of the banking and business sector all throughout the country. The advances in information technology on access devices has been taken advantage by criminals and criminal syndicates in perpetuating fraudulent activities that are inimical to the country's financial sector and undermine the public's trust towards the banking industry. It is in the state's interest to declare that commission of a crime using access devices is a form of economic sabotage and thus needs to be punished in the maximum level allowed by law. The need to protect the integrity of the Banking Industry is paramount. The clamor to protect the people from all forms of banking fraud, if left unheeded, could have a serious implication on the country's booming economy.

Appropriately, the need to amend the law is thus warranted. This amendment seeks to ensure the integrity of the country's economic advances and protect the Philippine banking industry as a whole.

In view of the foregoing, the approval of this bill is urgently requested


RAMON "Red" H. DURANO VI



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AN ACT AMENDING REPUBLIC ACT NO. 8484, OTHERWISE KNOWN AS AN ACT REGULATING THE ISSUANCE AND USE OF ACCESS DEVICES, PROHIBITING FRAUDULENT ACTS COMMITTED 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. – *Section 2 of RA 8484* is hereby amended to read as follows:
Section 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 HAS BEEN TAKEN ADVANTAGE BY CRIMINALS AND CRIMINAL SYNDICATES IN PERPETRATING FRAUDULENT ACTIVITIES THAT ARE INIMICAL TO THE COUNTRY'S FINANCIAL SECTOR AND MADE FINANCIAL INSTITUTIONS SUFFER HUGE MONETARY LOSSES AND MAY UNDERMINE THE TRUST OF THE PUBLIC TO THE BANKING INDUSTRY OF THE COUNTRY. AND DUE TO THIS PRECARIOUS EFFECT TO THE ECONOMY, THE STATE SHALL DECLARE THAT 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.

SECTION 2. Section 3 of RA 8484 is hereby amended to read as follows:
Section 3. Definition of terms. – For purposes of this Act, the terms:
(a) *Access Device* – means any card, plate, code, account number, electronic serial number, personal identification number, or other telecommunications service,

- equipment, or instrumental identifier, or other means of account access that can be used to obtain money, good, services, or any other thing of value or to initiate a transfer of funds (other than a transfer originated solely by paper instrument);
- (b) **Counterfeit Access Device** – means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or counterfeit access device OR ANY FRAUDULENT COPY OR REPRODUCTION OF A VALID ACCESS DEVICE;
- (c) **Unauthorized Access Device** – means any access device that is stolen, lost, expired, revoked, canceled, suspended, or obtained with intent to defraud;
- (d) **Access Device Fraudulently Applied for** – means any access device that was applied for or issued on account of the use of falsified document, false information, fictitious identities and addresses, or any form of false pretense or misrepresentation;
- (e) **Consumer** – means a natural person;
- (f) **Credit Card** – means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, goods, property, labor or services or anything of value on credit;
- (g) **Device Making or Altering Equipment** – means any equipment, mechanism or impression designed or primarily used for making or altering or re-encoding an access device or a counterfeit access device;
- (h) **Finance Charges** – represent the amount to be paid by the debtor incident to the extension of credit such as interest or discounts, collection fees, credit investigation fees, and other service charges;
- (i) **Open-end-credit plan** – means a consumer credit extended on an account pursuant to a plan under which:
- 1) the creditor may permit the person to make purchase or obtain loans, from time to time, directly from the creditor or indirectly by use of credit card, or other service;
 - 2) the person has the privilege of paying the balance; or
 - 3) a finance charge may be computed by the creditor from time to time on an unpaid balance.
- (j) **Penalty Charges** – means such amount, in addition to interest, imposed on the credit card holder for non-payment of an account within a prescribed period;
- (k) **Produce** – includes design, alter, authenticate, duplicate or assemble;
- (l) **Trafficking** – means transferring, or otherwise disposing of, to another, or obtaining control of, with intent to transfer or dispose of;
- (m) **HACKING – REFERS TO THE 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;**
- (n) **ATM CARD OR AUTOMATED TELLER MACHINE CARD –INCLUDES ANY CARD OF WHATEVER MATERIAL OR FORM INCLUDING ANY KIND OF DEBIT CARD, BUT NOT A CREDIT CARD, THAT IS ISSUED BY A BANK OR BUSINESS ENTITY WITH THE INTENTION OF ACCESSING ANY MACHINE FOR THE DISBURSEMENT OF MONEY, LOADING ANY CREDIT TO ANY UTILITY OR GIVING OR GRANTING ACCESS TO A**

CUSTOMER FOR AN AMOUNT OF MONEY, SERVICE, GOODS OR ANYTHING OF VALUE. AN ATM CARD SHALL BE CONSIDERED AS AN ACCESS DEVICE FOR THE PURPOSES OF THIS ACT; AND
(o) SKIMMING – A TYPE OF FRAUD WHICH OCCURS WHEN AN ATM IS COMPROMISED BY A SKIMMING DEVICE, A CARD READER WHICH CAN BE DISGUISED TO LOOK LIKE A PART OF THE ATM MACHINE AND WHICH SAVES THE USERS' CARD NUMBER AND PIN CODE.

SECTION 3. Section 9 of RA 8484 is hereby amended to read as follows:

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

- (a) producing, using, trafficking in one or more counterfeit access devices;
- (b) trafficking in one or more unauthorized access devices or access devices fraudulently applied for;
- (c) using, with intent to defraud, an unauthorized access device;
- (d) using an access device fraudulently applied for;
- (e) possessing one or more counterfeit access devices or access devices fraudulently applied for;
- (f) producing, trafficking in, having control or custody of, or possessing device-making or altering equipment without being in the business or employment, which lawfully deals with the manufacture, issuance, or distribution of such equipment;
- (g) inducing, enticing, permitting or in any manner allowing another, for consideration or otherwise to produce, use, traffic in counterfeit access devices, unauthorized access devices or access devices fraudulently applied for;
- (h) multiple imprinting on more than one transaction record, sales slip or similar document, thereby making it appear that the device holder has entered into a transaction other than those which said device holder had lawfully contracted for, or submitting, without being an affiliated merchant, an order to collect from the issuer of the access device, such extra sales slip through an affiliated merchant who connives therewith, or, under false pretenses of being an affiliated merchant, present for collection such sales slips, and similar documents;
- (i) disclosing any information imprinted on the access device, such as, but not limited to, the account number or name or address of the device holder, without the latter's authority or permission;
- (j) obtaining money or anything of value through the use of an access device, with intent to defraud or with intent to gain and fleeing thereafter;
- (k) having in one's possession, without authority from the owner of the access device or the access device company, an access device, or any material, such as slips, carbon paper, or any other medium, on which the access device is written, printed, embossed, or otherwise indicated;
- (l) writing or causing to be written on sales slips, approval numbers from the issuer of the access device of the fact of approval, where in fact no such approval was given, or where, if given, what is written is deliberately different from the approval actually given;
- (m) making any alteration, without the access device holder's authority, of any amount or other information written on the sales slip;
- (n) effecting transaction, with one or more access devices issued to another person or persons, to receive payment or any other thing of value;
- (o) without the authorization of the issuer of the access device, soliciting a person for the purpose of:
 - 1) offering an access device; or
 - 2) selling information regarding or an application to obtain an access device;

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

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

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

SECTION 4. Section 10 of RA 8484 is hereby amended to read as follows:

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

(A) IMPRISONMENT FOR NOT LESS THAN TWELVE (12) YEARS AND NOT MORE THAN TWENTY (20) YEARS AND A FINE TWICE THE EQUIVALENT OF THE AGGREGATE AMOUNT OF ALL AFFECTED OR EXPOSED BANK ACCOUNTS, BUT THE FINE SHALL NOT BE LESS THAN FIVE HUNDRED THOUSAND PESOS (₱500,000.00), IN THE CASE OF AN OFFENDER WHO IS IN POSSESSION OF TEN (10) OR MORE COUNTERFEIT ACCESS DEVICES AND/OR UNAUTHORIZED ACCESS DEVICES AND WAS ABLE TO ACCESS AT LEAST ONE (1) ACCOUNT OR HAD GAINED CREDIT BY THE FRAUDULENT USE OF ANY OF SUCH ACCESS DEVICE IN HIS POSSESSION;

(B) IMPRISONMENT FOR NOT LESS THAN SIX (6) YEARS AND NOT MORE THAN TWELVE (12) YEARS AND A FINE OF THREE HUNDRED THOUSAND PESOS (₱300,000.00) OR TWICE THE EQUIVALENT OF THE AGGREGATE AMOUNT OF ALL AFFECTED OR EXPOSED BANK ACCOUNTS, WHICHEVER IS HIGHER, IN THE CASE OF AN OFFENDER WHO IS IN POSSESSION OF TEN (10) OR MORE COUNTERFEIT ACCESS DEVICES AND/OR UNAUTHORIZED ACCESS DEVICES BUT WAS NOT PROVEN TO HAVE ACCESSED ANY ACCOUNT OR HAVE GAINED ANY CREDIT THROUGH ANY OF THE ACCESS DEVICES IN HIS POSSESSION;

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

(D) IMPRISONMENT FOR NOT LESS THAN SIX (6) YEARS AND NOT MORE THAN TEN (10) YEARS, AND A FINE OF FIVE HUNDRED THOUSAND PESOS (₱500,000.00) OR TWICE THE VALUE OBTAINED BY THE OFFENDER, WHICHEVER IS HIGHER, WITHOUT PREJUDICE TO THE CIVIL LIABILITY OF THE OFFENDER, IN THE CASE OF AN OFFENSE UNDER SECTION 9 (B)-(E), (G)-(P), AND (R), WHICH DOES NOT OCCUR AFTER A CONVICTION FOR ANOTHER OFFENSE UNDER SECTION 9;

(E) IMPRISONMENT FOR NOT LESS THAN TEN (10) YEARS AND NOT MORE THAN TWELVE (12) YEARS, AND A FINE OF FIVE HUNDRED

THOUSAND PESOS (₱500,000.00) OR TWICE THE VALUE OBTAINED BY THE OFFENDER, WHICHEVER IS HIGHER, WITHOUT PREJUDICE TO CIVIL LIABILITY OF THE OFFENDER, IN THE CASE OF AN OFFENSE UNDER SECTION 9 (A), (F), AND (Q), WHICH DOES NOT OCCUR AFTER A CONVICTION FOR ANOTHER OFFENSE UNDER SECTION 9;

(F) IMPRISONMENT FOR NOT LESS THAN TWELVE (12) YEARS AND NOT MORE THAN TWENTY (20) YEARS, AND A FINE OF EIGHT HUNDRED THOUSAND PESOS (₱800,000.00) OR TWICE THE VALUE OBTAINED BY THE OFFENDER, WHICHEVER IS HIGHER, WITHOUT PREJUDICE TO CIVIL LIABILITY OF THE OFFENDER, IN THE CASE OF ANY OFFENSE UNDER SECTION 9, WHICH OCCURS AFTER A CONVICTION FOR ANOTHER OFFENSE UNDER SAID SUBSECTION, OR AN ATTEMPT TO COMMIT THE SAME; AND

(G) THE PENALTY OF LIFE IMPRISONMENT AND A FINE OF NOT LESS THAN ONE MILLION PESOS (₱1,000,000.00) NOR MORE THAN FIVE MILLION PESOS (₱5,000,000.00) SHALL BE IMPOSED IF THE OFFENSE CONSTITUTES ECONOMIC SABOTAGE AS DEFINED HEREIN.

SECTION 5. *CRIMES INVOLVING ECONOMIC SABOTAGE.* – THE FOLLOWING SHALL BE CONSIDERED AS AN OFFENSE INVOLVING ECONOMIC SABOTAGE:

(A) IF ANY OF THE PROHIBITED ACTS IN SECTION 9 INVOLVE HACKING OF A BANK SYSTEM; AND

(B) IF THE SKIMMING AFFECTED FIFTY (50) OR MORE ATM CARDS.

SECTION 6. *ALIENS, NON RESIDENT FILIPINOS AND OFFENDERS WITH ATTEMPT OR CAPACITY TO ABSCOND.* – ALIENS, NON RESIDENT FILIPINOS OR FILIPINO OFFENDERS WHO HAVE THE CAPACITY TO ABSCOND OR HAD ATTEMPTED TO ABSCOND SHALL NOT BE ALLOWED TO POST BAIL.

SECTION 7. *Separability clause.* – If any separable provision of this Act be declared unconstitutional, the remaining provisions shall continue to be in force.

SECTION 8. *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 9. *Effectivity clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,