

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

EIGHTEENTH CONGRESS  
First Regular Session

House Bill No. 5282



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Introduced by **Rep. ANGELO MARCOS BARBA**  
2<sup>nd</sup> District, Ilocos Norte

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***EXPLANATORY NOTE***

Credit and debit card terms and conditions in cases of loss or theft of cards are biased against cardholders.

As it stands today, cardholders are either deemed absolutely liable or conclusively liable for unauthorized transactions made prior to the reporting of the loss or theft of the card to the card issuer. While a cardholder can prove that his or her card was stolen, that his or signature was forged, or that he or she reported the loss or theft of the card within reasonable time from the discovery of the loss or theft of the card, card issuers extend no consideration whatsoever to their cardholders.

Merchant partners, however, are rendered free and harmless from any liabilities in case of fraudulent and unauthorized transactions even when they have been remiss in their duty to exercise due diligence in ascertaining the identity of the cardholder.

This prevailing norm is contrary to the policy of the state to protect cardholders from unfair practices, scams, and credit card fraud. It is imperative that Congress provide much needed legislation for the protection of the cardholders.

This bill seeks to amend certain provisions under Republic Act No. 10870 to ensure that innocent cardholders are not made liable for fraudulent and unauthorized transactions due to lost or stolen cards.

In view of the foregoing, immediate passage of this bill is earnestly sought.

  
**ANGELO MARCOS BARBA**

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**AN ACT PROTECTING CARDHOLDERS FROM LIABILITY FOR  
UNAUTHORIZED TRANSACTIONS IN CASES OF LOSS, FRAUD OR  
THEFT OF CREDIT OR DEBIT CARDS, AMENDING FOR THE  
PURPOSE REPUBLIC ACT NO. 10870**

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

**SECTION 1.** Section 5 of Republic Act No. 10870 is amended to read as follows:

“Sec 5. *Definition of terms.* – As used in this Act, the following terms are defined as follows:

(s) xxx

(t) *Card fraud* is a wide-ranging term for theft and fraud committed using credit cards, debit cards, or any other similar payment mechanism as a fraudulent source of funds. The purpose is to obtain unauthorized funds from a cardholder’s account. It is also adjunct to identity theft.

(u) *Debit card* is a plastic payment card that can be used instead of cash when making purchases. It is similar to a credit card, but unlike a credit card, the money comes directly from the user’s bank account when performing a transaction.

(v) *Reasonable time* is defined as so much time as is necessary under the circumstances for a reasonable prudent and diligent man to do, conveniently, what the contract or duty requires should be done, having regard for the rights, and possibility of loss, if any, to the other party.<sup>1</sup>”

**SECTION 2.** Section 8 of Republic Act No. 10870 is amended to read as follows:

“Sec. 8. *Service Level Agreement* – There shall be, in the service level agreement between the acquiring banks and their partner merchants, a

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<sup>1</sup> *Far East Realty Investment, Inc. v. Court of Appeals*, 248 Phil. 497, 503-504 (1988)



provision requiring merchants to perform due diligence to establish the identity of the cardholders.

THE IDENTITY OF A CARDHOLDER SHALL BE ASCERTAINED BY REQUIRING THE PRESENTATION OF A VALID IDENTIFICATION CARD, A COMPARISON OF THE NAME AND SIGNATURE ON THE CREDIT CARD WITH THE NAME AND SIGNATURE ON THE ID PRESENTED BY THE CARDHOLDER, OR SOME OTHER MEANS OF AUTHENTICATING THE IDENTITY OF THE CARDHOLDER.

Nothing in this Act shall preclude a card issuer from verifying or seeking confirmation with the cardholder any purchase if in their assessment there is reasonable concern as to the validity of the purchase.”

**SECTION 3.** A new section designated as Sec. 8-A is hereby inserted to read as follows:

Sec. 8-A. *Liability of Partner Merchants* – Merchants shall bear the loss for failure to observe the due diligence required under Section 8 in ascertaining the identity of a cardholder in case of unauthorized transactions due to lost or stolen credit cards and other cases of card fraud.

**SECTION 4.** Section 11 of Republic Act No. 10870 is amended to read as follows:

“Sec. 11. *Information to be Disclosed.* – A credit card issuer shall disclose to all credit cardholders and potential credit cardholders the following information:

xxx

(h) xxx

(i) A clear and proper description of the means by which the card issuer may be notified of the loss or theft of credit and debit card. The telephone number dedicated solely for reporting loss or theft of credit and debit cards shall be printed in the terms and conditions and/or billing statement.

(j) A reminder to the cardholder in the terms and conditions and/or billing statement that the failure to report the loss or theft of a credit card **within reasonable time** would result to potential liability for unauthorized transactions.

(k) Any other information that may be required by the BSP.

xxx”

**SECTION 5.** Section 15 of Republic Act No. 10870 is amended to read as follows:

Sec. 15. *Lost or Stolen Card.* – In case a card is lost or stolen, a cardholder incurs no liability from the unauthorized use of the card: *Provided*, That the cardholder reports the loss or theft of the card within reasonable time: *Provided further*, That the cardholder does not act fraudulently: *Provided, finally*, That the cardholder has not reported two or more incidents of unauthorized use in the immediately preceding 12-month period.

**SECTION 6.** A new section designated as Sec. 15-A is hereby inserted to read as follows:

Sec. 15-A. *Burden of proof.* In any action by a card issuer to enforce liability for the unauthorized use of credit or debit card, the burden of proof is upon the card issuer to show that the use was authorized or, if the use was unauthorized, then the burden of proof is upon the card issuer to show that the conditions set forth in Section 15 have not been met.

**SECTION 7.** A new section designated as Sec. 15-B is hereby inserted to read as follows:

Sec. 15-B. *Card Security Features* – To protect cardholders from fraudulent and unauthorized transactions, card issuers shall establish card security features such as but not limited to the following:

- a. A PIN-enabled card allowing the cardholder to make purchases only by keying in a 4 or 6-digit PIN.
- b. Transaction notification alerting cardholders of their recent transactions and charges via SMS, e-mail or other electronic means.
- c. Transaction validation requiring cardholders to validate recent transactions or charges via SMS, e-mail or other electronic means.

**SECTION 8. Repealing Clause.** – All laws, decrees, executive orders, memorandum circulars inconsistent with the provisions of this Act are hereby amended, repealed or modified accordingly.

**SECTION 9. Effectivity.** – This act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,