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INTRODUCED BY SENATORS FLAVIER, OPLE, MAGSAYSAY, JR., SOTTO III, ROCO, DEFENSOR SANTIAGO, DRILON, ENRILE, HONASAN, CAYETANO, GUINGONA, JR., REVILLA, PIMENTEL, JR. AND AQUINO-ORETA

AN ACT PROVIDING FOR AN ELECTRONIC COMMERCE LAW AND FOR OTHER PURPOSES

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

PART I.

SHORT TITLE AND DECLARATION OF POLICY

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3   SECTION 1. *Short Title.* - This Act shall be known and cited as
4 the "Electronic Commerce Act".

5   SEC. 2. *Declaration of Policy.* - The State shall promote Philippine
6 products in domestic and foreign markets through electronic commerce.
7 For that purpose, the State shall supplement traditional means of trade
8 and adopt the necessary and appropriate legal, financial diplomatic
9 and technical framework, system and facilities.

1   PART II.

2   ELECTRONIC COMMERCE IN GENERAL

3   CHAPTER I - GENERAL PROVISIONS

4   SEC. 3. *Objective.* - This Act aims to encourage and facilitate
5 domestic and international exchange of information, dealings,
6 transactions, arrangements, agreements and contracts through the
7 utilization of electronic, optical and similar medium, mode and
8 instrumentality, and to ensure security and recognize the authenticity
9 and reliability of data messages related to such activities.

10   SEC. 4. *Sphere of Application.* - This Act shall apply to any kind
11 of data message used in the context of commercial activities and other
12 exchange of information, dealings, transactions, arrangements,
13 agreements and contracts.

14   SEC. 5. *Definition of Terms.* - For the purposes of this Act, the
15 following terms are defined, as follows:

16   (a) "Addressee" of a data message means a person who is
17 intended by the originator to receive the data message, but does not
18 include a person acting as an intermediary with respect to that data
19 message;

20   (b)"Computer" refers to any device or apparatus singly or
21 interconnected which, by electronic, electromechanical, optical and/
22 or magnetic impulse, or other means with the same function, can receive,
23 record, transmit, store, process, correlate, analyze, project, retrieve and/
24 or produce information, data, text, graphics, figures, voice, video,
25 symbols or other modes of expression or perform any one or more of

1 these functions;

2   (c) "Data" means representations, in any form, of information or

3 concepts;

4   (d) "Electronic Contract" refers to all records generally

5 processed, communicated or used for any purpose in any commercial or

6 governmental transaction.

7   The term "commercial" should be given a wide interpretation so

8 as to cover matters arising from all transactions whether contractual

9 or not, to include, but are not limited to, the following: any trade

10 transaction for the supply or exchange of goods or services; distribution

11 agreement; commercial representation or agency; leasing; construction of

12 works; consulting; engineering; licensing; investment; financing;

13 banking; insurance; exploitation agreement or concession; joint venture

14 and other forms of industrial or business cooperation; carriage of goods

15 or passengers by air, sea, rail or road;

16   (e) "Electronic Data Interchange (EDI)" means the electronic

17 transfer from computer to computer of information using an agreed

18 standard to structure the information;

19   (f) "Electronic Data Message" means data that is generated,

20 recorded, sent, received or stored on any medium in or by a computer

21 system or other similar device, that can be read or perceived by a person

22 or a computer system or other similar device. It includes a display, printout

23 or other output of that data;

24   (g) "Electronic Data Message System" means a system for

25 generating, sending, receiving, storing or otherwise processing data

1 messages. It includes the computer system or other similar device by or

2 in which data is recorded or stored and any procedures related to the

3 recording or storage of electronic data message;

4   (h) "Electronic Signature" refers to any distinctive mark,

5 characteristic and/or sound in electronic form, representing the identity of

6 a person and attached to or logically associated with the data message

7 or any methodology or procedures employed or adopted by a person and

8 executed or adopted by such person with the intention of authenticating

9 or approving an electronic document;

10   (i) "Information" refers to data, text, images, sound, codes,

11 computer programs, software and database, or to a collection or

12 combination thereof;

13   (j) "Intermediary", with respect to a particular data message,

14 means a person who, on behalf of another person, sends, receives or

15 stores that data message or provides other services with respect to that

16 data message;

17   (k) "Originator" of a data message means a person by whom, or

18 on whose behalf, the data message purports to have been sent or

19 generated prior to storage, if any, but it does not include a person acting

20 as an intermediary with respect to that data message.

21   SEC. 6. *Statutory Interpretation.* - Unless otherwise expressly

22 provided for, the interpretation of this Act shall give due regard to

23 its international origin and the need to promote uniformity in its

24 application and the observance of good faith in international trade

25 relations and E-commerce. The generally accepted principles of

1 international law and convention on electronic commerce shall likewise

2 be considered.

3   SEC .7. *Variation by Agreement.* - (1) As between parties involved

4 in generating, sending, receiving, storing or otherwise processing data

5 message, and except as otherwise provided, the provisions of Part II,

6 Chapter III, may be varied by agreement.

7   (2) Paragraph (1) does not affect any right that may exist to modify

8 by agreement any rule of law referred to in Part II, Chapter II.

9   CHAPTER II.

10   LEGAL RECOGNITION OF DATA MESSAGES

11   SEC. 8. *Legal Recognition of Data Messages.* - Information as

12 defined in this Act, shall not be denied legal effect, validity or

13 enforceability solely on the grounds that it is in the form of a data

14 message, or that it is incorporated by reference in the data message. For

15 evidentiary purposes, a data message or electronic writing shall be

16 the functional equivalent of a written document under existing laws.

17   This Act does not modify any statutory rule relating to the

18 admissibility of records, except the rules relating to authentication and

19 best evidence.

20   SEC. 9. *Legal Recognition of Electronic Writing.* - (1) Where the

21 law requires information to be in writing that requirement is met by a data

22 message if the information contained therein is accessible so as to be

23 usable for subsequent reference.

24   (2) Paragraph (1) applies whether the requirement therein is in the

25 form of an obligation or whether the law simply provides consequences

1 for the information not being in writing.

2   SEC. 10. *Legal Recognition of Electronic Signatures.* - (1) Where

3 the law requires a signature of a person, proof of the signature may be

4 deemed established if the identity of the person concerned is shown by

5 appropriate evidence aliunde and that he/she has the information

6 contained in the data message.

7   (a) a method is used to identify that person and to indicate

8   that person's approval of the information contained in the data

9   message; and

10   (b) that method is as reliable as was appropriate for the

11   purpose for which the data message was generated or

12   communicated, in the light of all the circumstances, including any

13   relevant agreement.

14   (2) Paragraph (1) applies whether the requirement therein is in the

15 form of an obligation or whether the law simply provides consequences

16 for the absence of a signature.

17   SEC. 11. *Original Documents.* - (1) Where the law requires

18 information to be presented or retained in its original form, that

19 requirement is met by a data message if:

20   (a) the integrity of the information from the time when it was

21   first generated in its final form, as a data message by evidence

22   aliunde or otherwise; and

23   (b) where it is required that information be presented, that

24   information is capable of being displayed to the person to whom

25   it is to be presented.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being presented or retained in its original form.

(3) For the purposes of subparagraph (a) of paragraph (1):

(a) the criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage and display; and

(b) the standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all the relevant circumstances.

SEC. 12. *Authentication of Data Messages.* - Until the Supreme Court by appropriate rules shall have so provided, the electronic writings, data messages and electronic signatures, shall be authenticated by demonstrating, substantiating and validating a claimed identity of a user, device, or another entity in an information or communication system, among other ways, as follows:

(a) The electronic signature shall be authenticated by proof that a letter, character, number or other symbol in electronic form representing the persons named in and attached to or logically associated with a data message, electronic writing, or that the methodology or procedures were employed or adopted by a person and executed or adopted by such person, with the intention of authenticating or approving an electronic document;

(b) The electronic data message or writing shall be

authenticated by proof that a security procedure was adopted and employed for the purpose of verifying the originator of an electronic data message, or detecting error or alteration in the communication, content or storage of an electronic writing or data message from a specific point which using algorithm or codes, identifying words or numbers, encryptions, answers back or acknowledgement procedures, or similar security devices.

The Supreme Court may adopt such other authentication procedures, including the use of electronic notarization systems as necessary and advisable, as well as the certificate of authentication on printed or hard copies of the electronic writings or data messages by electronic notaries, service providers and other duly recognized or appointed certification authorities.

The person seeking to introduce an electronic data message in any legal proceeding has the burden of proving its authenticity by evidence capable of supporting a finding that the electronic data message is what the person claims it to be.

In the absence of evidence to the contrary, the integrity of the electronic data message system in which an electronic data message is recorded or stored may be established in any legal proceeding -

(a) By evidence that at all material times the computer system or other similar device was operating in a manner that did not affect the integrity of the electronic data message, and there are no other reasonable grounds to doubt the integrity of the electronic data message system;

(b) By showing that the electronic data message was recorded or stored by a party to the proceedings who is adverse in interest to the party using it; or

(c) By showing that the electronic data message was recorded or stored in the usual and ordinary course of business by a person who is not a party to the proceedings and who did not act under the control of the party using the record.

SEC.13. *Admissibility and Evidential Weight of Data Messages .-* (1) In any legal proceedings, nothing in the application of the rules of evidence shall apply so as to deny the admissibility of a data message in evidence:

(a) on the sole ground that it is a data message;

(b) if it is the best evidence that the person adducing it could reasonably be expected to obtain, on the grounds that it is not in its original form;

(c) subject to paragraph (d), the best evidence rule in respect of an electronic data message, is satisfied on proof of the integrity of the electronic data message system in or by which the data was recorded or stored; or

(d) that it is an electronic data message in the form of a printout that has been manifestly or consistently acted on, relied upon, or used as the record of the information recorded or stored on the printout.

(2) Information in the form of a data message shall be given due evidential weight. In assessing the evidential weight of a data message,

regard shall be had to the reliability of the manner in which the data message was generated, stored or communicated, to the reliability of the manner in which the integrity of the information was maintained, to the manner in which its originator was identified, and to any other relevant factor.

(3) For the purpose of determining under any rule of law whether an electronic data message is admissible, evidence may be presented in any legal proceeding in respect of any standard, procedure, usage or practice on how electronic data messages are to be recorded or stored, having regard to the type of business or endeavor that used, recorded or stored the electronic data message and the nature and purpose of the electronic data message.

SEC. 14. *Retention of Data Messages* - (1) Where the law requires that certain documents, records or information be retained, that requirement is met by retaining data messages: *Provided,* That the following conditions are satisfied:

(a) the information contained therein is accessible so as to be usable for subsequent reference;

(b) the data message is retained in the format in which it was generated, sent or received, or in the format which can be demonstrated to represent accurately the information generated, sent or received; and

(c) such information, if any, is retained as enables the identification of the original and destination of a data message and the time when it was sent or received.

1   (2) An obligation to retain documents, records or information in

2   accordance with paragraph (1) does not extend to any information the sole

3   purpose of which is to enable the message to be sent or received.

4   (3) A person may satisfy the requirement referred to in paragraph

5   (1) by using the services of any other person: *Provided,* That the

6   conditions set forth in subparagraphs (a), (b) and (c) of paragraph (1) are

7   met.

8   SEC. 15. *Proof By Affidavit.* - The matters referred to in Section

9   13, paragraph (d), on the use of the record, Section 12, on the presumption

10 of integrity, and Section 13, paragraph (3) on the standards, may be

11 presumed to have been established by an affidavit given to the best

12 of the deponent's knowledge subject to the rights of parties in interest

13 as defined in the following section.

14 SEC. 16. *Cross-Examination.* - (1) A deponent of an affidavit

15 referred to in Section 15 that has been introduced in evidence may be

16 cross-examined as of right by a party to the proceedings who is adverse

17 in interest to the party who has introduced the affidavit or has caused the

18 affidavit to be introduced.

19 (2) Any party to the proceedings has the right to cross-examine a

20 person referred to in Section 12, fourth paragraph, subparagraph (c).

21 CHAPTER III. COMMUNICATION OF DATA MESSAGES

22 SEC. 17. *Formation and Validity of Contracts.* — (1) In the context

23 of contract formation, unless otherwise agreed by the parties, an offer and

24 the acceptance of an offer may be expressed by means of data messages.

25 Where a data message is used in the formation of a contract, that contract

1   shall not be denied validity or enforceability on the sole ground that a data

2   message was used for that purpose.

3   SEC. 18. *Recognition by Parties of Data Messages.* - (1) As

4   between the originator and the addressee of a data message, a declaration

5   of will or other statement shall not be denied legal effect, validity or

6   enforceability solely on the grounds that it is in the form of a data

7   message.

8   SEC. 19. *Attribution of Data Messages.* - (1) A data message is that

9   of the originator if it was sent by the originator itself.

10 (2) As between the originator and the addressee, a data message

11 is deemed to be that of the originator if it was sent:

12 (a) by a person who had the authority to act on behalf of the

13 originator in respect of that data message; or

14 (b) by an information system programmed by, or on behalf

15 of the originator to operate automatically.

16 (3) As between the originator and the addressee, an addressee is

17 entitled to regard a data message as being that of the originator, and to

18 act on that assumption, if:

19 (a) in order to ascertain whether the data message was that

20 of the originator, the addressee properly applied a procedure

21 previously agreed to by the originator for that purpose; or

22 (b) the data message as received by the addressee resulted

23 from the actions of a person whose relationship with the originator

24 or with any agent of the originator enabled that person to gain

25 access to a method used by the originator to identify data

1 messages as its own.

2 (4) Paragraph (3) does not apply:

3 (a) as of the time when the addressee has both received

4 notice from the originator that the data message is not that of the

5 originator, and has reasonable time to act accordingly; or

6 (b) in a case within paragraph (3) subparagraph (b), at any

7 time when the addressee knew or should have known, had it

8 exercised reasonable care or used any agreed procedure, that the

9 data message was not that of the originator.

10 (5) Where a data message is that of the originator or is deemed to

11 be that of the originator, or the addressee is entitled to act on that

12 assumption, then, as between the originator and the addressee, the

13 addressee is entitled to regard the data message as received as being what

14 the originator intended to send, and to act on that assumption. The

15 addressee is not so entitled when it knew or should have known, had it

16 exercised reasonable care or used any agreed procedure, that the

17 transmission resulted in any error in the data message as received.

18 (6) The addressee is entitled to regard each data message received

19 as a separate data message and to act on that assumption, except to the

20 extent that it duplicates another data message and the addressee knew or

21 should have known, had it exercised reasonable care or used any agreed

22 procedure, that the data message was a duplicate.

23 SEC. 20. *Effect of Error or Change.* - If an error or change in an

24 electronic document occurs in a transmission between parties to a

25 transaction, the following rules apply:

1 (1) If the parties have agreed to use a security procedure to detect

2 changes or errors and one party has conformed with the procedure, but

3 the other party has not, and the non-conforming party would have

4 detected the change or error had that party also conformed, the

5 conforming party may avoid the effect of the erroneous or changed

6 electronic document.

7 (2) In an automated transaction involving an individual, the

8 individual may avoid the effect of an electronic document that resulted

9 from an error made by the individual in dealing with the electronic agent

10 of another person. If the electronic agent did not provide an opportunity

11 for the prevention or correction of the error and, at the time the individual

12 learns of the error, the individual:

13 (a) Promptly notifies the other person of the error and that

14 the individual did not intend to be bound by the electronic

15 document received by the other person;

16 (b) Takes reasonable steps including steps that conform to

17 the other person's reasonable instructions, to return to the other

18 person or, if instructed by the other person to destroy the

19 consideration received, if any, as a result of the erroneous

20 electronic documents; and

21 (c) Has not used or received any benefit or value from the

22 consideration, if any, received from the other person.

23 (3) If neither paragraph (1) nor paragraph (2) applies, the error or

24 change has the effect provided by other law, and the parties' contract, if

25 any.

1   (4) Paragraphs (2) and (3) may not be varied by agreement.

2   SEC. 21. *Acknowledgement of Receipt.* - (1) Paragraphs (2) to

3   (4) of this article apply where, on or before sending a data message, or

4   by means of that data message, the originator has requested or has agreed

5   with the addressee that receipt of the data message be acknowledged.

6   (2) Where the originator has not agreed with the addressee that the

7   acknowledgement be given in a particular form or by a particular method,

8   an acknowledgement may be given by:

9   (a) any communication by the addressee, automated or

10   otherwise; or

11   (b) any conduct of the addressee, sufficient to indicate to

12   the originator that the data message has been received.

13   (3) Where the originator has stated that the data message is

14   conditional on receipt of the acknowledgement, the data message is

15   treated as though it has never been sent, until the acknowledgement is

16   received.

17   (4) Where the originator has not stated that the data message is

18   conditional on receipt of the acknowledgement, and the acknowledgement

19   has not been received by the originator within the time specified or agreed

20   or, if no time has been specified or agreed, within a reasonable time, the

21   originator:

22   (a) may give notice to the addressee stating that no

23   acknowledgement has been received and specifying a reasonable

24   time by which the acknowledgement must be received; and

1   (b) if the acknowledgement is not received within the time

2   specified in subparagraph (a), may, upon notice to the addressee,

3   treat the data message as though it had never been sent, or exercise

4   any other rights it may have.

5   (5) Where the originator receives the addressee's acknowledgement

6   of receipt, it is presumed that the related data message was received by

7   the addressee. That presumption does not imply that the data message

8   corresponds to the message received.

9   (6) Where the received acknowledgement states that the related

10   data message met technical requirements, either agreed upon or set forth

11   in applicable standards, it is presumed that those requirements have been

12   met.

13   (7) Except in so far as it relates to the sending or receipt of the data

14   message, this article is not intended to deal with the legal consequences

15   that may flow either from that data message or from the acknowledgement

16   of its receipt.

17   SEC. 22. *Time and Place of Dispatch and Receipt of Data*

18   *Messages.* - (1) Unless otherwise agreed between the originator and the

19   addressee, the dispatch of a data message occurs when it enters an

20   information system outside the control of the originator or of the person

21   who sent the data message on behalf of the originator.

22   (2) Unless otherwise agreed between the originator and the

23   addressee, the time of receipt of a data message is determined as follows:

24   (a) If the addressee has designated an information system

25   for the purpose of receiving data messages, receipt occurs:

1   (i) at the time when the data message enters the

2   designated information system; or

3   (ii) if the data message is sent to an information system

4   of the addressee that is not the designated information

5   system, at the time when the data message is retrieved by the

6   addressee;

7   (b) If the addressee has not designated an information

8   system, receipt occurs when the data message enters an

9   information system of the addressee.

10 (3) Paragraph (2) applies notwithstanding that the place where the

11 information system is located may be different from the place where the

12 data message is deemed to be received under paragraph (4).

13 (4) Unless otherwise agreed between the originator and the

14 addressee, a data message is deemed to be dispatched at the place where

15 the originator has its place of business, and is deemed to be received at

16 the place where the addressee has its place of business. For the purposes

17 of this paragraph:

18   (a) if the originator or the addressee has more than one

19   place of business, the place of business is that which has the

20   closest relationship to the underlying transaction or, where there

21   is no underlying transaction, the principal place of business;

22   (b) if the originator or the addressee does not have a place

23   of business, reference is to be made to its habitual residence.

1   PART III.

2   ELECTRONIC COMMERCE IN SPECIFIC AREAS

3   CHAPTER I - CARRIAGE OF GOODS

4   SEC. 23. *Actions Related to Contracts of Carriage of Goods.* -

5 Without derogating from the provisions of part two of this law, this

6 chapter applies to any action in connection with, or in pursuance of, a

7 contract of carriage of goods, including but not limited to:

8   (a) (i) furnishing the marks, number, quantity or weight of goods;

9   (ii) stating or declaring the nature or value of goods;

10   (iii) issuing a receipt for goods;

11   (iv) confirming that goods have been loaded;

12   (b) (i) notifying a person of terms and conditions of the contract;

13   (ii) giving instructions to a carrier;

14   (c) (i) claiming delivery of goods;

15   (ii) authorizing release of goods;

16   (iii) giving notice of loss of, or damage to goods;

17   (d) giving any other notice or statement in connection with the

18 performance of the contract;

19   (e) undertaking to deliver goods to a named person or a person

20 authorized to claim delivery;

21   (f) granting, acquiring, renouncing, surrendering, transferring or

22 negotiating rights in goods;

23   (g) acquiring or transferring rights and obligations under the

24 contract.

SEC. 24. *Transport Documents.* - (1) Subject to paragraph (3), where the law requires that any action referred to in Section 23 be carried out in writing or by using a paper document, that requirement is met if the action is carried out by using one or more data messages.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for failing either to carry out the action in writing or to use a paper document.

(3) If a right is to be granted to, or an obligation is to be acquired by, one person and no other person, and if the law requires that, in order to effect this, the right or obligation must be conveyed to that person by the transfer, or use of, a paper document, that requirement is met if the right or obligation is conveyed by using one or more data messages: *Provided*, That a reliable method is used to render such data message or messages unique.

(4) For the purposes of paragraph (3), the standard of reliability required shall be assessed in the light of the purpose for which the right or obligation was conveyed and in the light of all the circumstances, including any relevant agreement.

(5) Where one or more data messages are used to effect any action in subparagraphs (f) and (g) of Section 23, no paper document used to effect any such action is valid unless the use of data message has been terminated and replaced by the use of paper documents. A paper document issued in these circumstances shall contain a statement of such termination. The replacement of data messages by paper documents shall not affect the rights or obligations of the parties involved.

(6) If a rule of law is compulsorily applicable to a contract of carriage of goods which is in, or is evidenced by, a paper document, that rule shall not be inapplicable to such a contract of carriage of goods which is evidenced by one or more data messages by reason of the fact that the contract is evidenced by such data message or messages instead of by a paper document.

PART IV.

DATA MESSAGES IN GOVERNMENT TRANSACTIONS

SEC. 25. *Government Use of Data Messages and Electronic Signatures.* - Notwithstanding any law to the contrary, within two (2) years from the date of the effectivity of this Act, all departments, bureaus, offices and agencies of the government, as well as all government-owned and-controlled corporations, that pursuant to law require or accept the filing of documents, require that documents be created, or retained and/ or submitted, issue permit, license or certificates of registration or approval, or provide for the method and manner of payment or settlement of fees and other obligations to the government, shall -

(a) accept the creation, filing or retention of such documents in the form of data messages;

(b) issue permits, licenses, or approval in the form of data messages;

(c) require and/or accept payments, and issue receipts acknowledging such payments, through systems using data messages; or

(d) transact the government business and/or perform

1   governmental functions using data messages and, for the purpose,

2   are authorized to adopt and promulgate, after appropriate public

3   hearing and with due publication in newspapers of general

4   circulation, the appropriate rules, regulations, or guidelines, to,

5   among others, specify -

6   The manner and format in which such data messages

7   shall be filed, created, retained or issued;

8   1) where and when such data messages have to be signed, the

9   use of a digital signature or other secure electronic signature, the

10   type of electronic signature required; and

11   2) the format of the data message and the manner the electronic

12   signature shall be affixed to the data message;

13   3) the control processes and procedures as appropriate to

14   ensure adequate integrity, security and confidentiality of data messages,

15   records or payments;

16   4) other attributes required of data messages or payments; and

17   5) the full or limited use of the documents and papers for

18   compliance with the government requirements: *Provided,* That this Act

19   shall by itself mandate any department or ministry of the government,

20   organ of state of statutory corporation to accept or issue any document

21   in the form of data messages upon the adoption, promulgation and

22   publication of the appropriate rules, regulations, or guidelines.

23   SEC. 26. *Authority of the Department of Trade and Industry and*

24   *Participating Entities.* - The Department of Trade and Industry (DTI)

25   shall direct and supervise the promotion and development of electronic

1   commerce in the country. This will be in consultation and coordination

2   with the National Information Technology Council and National

3   Computer Center, as well as the government offices and agencies, and

4   representatives of the private sector concerned. Further, the DTI and the

5   participating government and private entities shall have the authority to

6   a) recommend policies, plans and programs to further

7   enhance the development of electronic commerce in the country;

8   b) coordinate and monitor the implementation of said

9   policies, plans and/or programs;

10   c) provide fora and mechanisms in addressing issues and

11   concerns affecting the other government offices and agencies;

12   d) within sixty (60) days after the effectivity of this Act,

13   promulgate rules and regulations and perform such other functions

14   as are necessary and advisable for the implementation of this Act

15   in the area of electronic commerce. Failure to issue rules and

16   regulations shall not in any manner affect the executory nature

17   of the provisions.

PART V.

FINAL PROVISIONS

20   SEC. 27. *Taxes on E-Commerce Transactions.* - Value-added, sales

21   and other appropriate taxes shall be collected on E-commerce transactions

22   by the central and local governments concerned.

23   SEC. 28. *Reciprocity Provision.* - All benefits, privileges,

24   advantages or statutory rules established under this Act, including

25   those involving practice of one's profession, shall be enjoyed only by

1 parties whose country of origin grants the same benefits and privileges

2 or advantages to Filipino citizens.

3   SEC. 29. *Penalties.* - The following Acts shall be penalized by fine

4 and/or imprisonment, as follows:

5   a) Hacking or cracking which refers to unauthorized access

6 into or interference in a computer system/server by or through the

7 use of a computer or a computer system in the computer or in

8 another computer, without the knowledge and consent of the

9 owner of the computer or system, including the introduction of

10 computer viruses and the like, resulting in the corruption,

11 destruction, alteration, theft or loss of data messages shall be

12 punished by a minimum fine of One hundred thousand pesos

13 (P100,000.00) and a maximum commensurate to the damage

14 incurred and a mandatory imprisonment of six (6) months to three

15 (3) years;

16   b) Violations of the Consumer Act or Republic Act No. 7394

17 through transactions covered by or using data messages, to be

18 penalized with the same penalties as provided in that Act;

19   c) Other violations of the provisions of this Act, to be

20 penalized with a maximum penalty of One million pesos

21 (P1,000,000.00) or six (6) years imprisonment.

22   Non-disclosure of proper identification or point of origin of any

23 data message shall render such data message of no value.

1   SEC. 30. *Separability Clause.* - The provisions of this Act are

2 hereby declared separable and in the event of any such provision is

3 declared unconstitutional, the other provisions to remain in force and

4 effect.

5   SEC. 31. *Repealing Clause.* - All other laws, decrees, rules and

6 regulations or parts thereof which are inconsistent with the provisions of

7 this Act are hereby repealed, amended or modified accordingly.

8   SEC. 32. *Effectivity.* - This Act shall take effect immediately after its

9 publication in the *Official Gazette* or in at least two (2) national

10 newspapers of general circulation.

    Approved,