

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)

First Regular Session



HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 2511

Introduced by **REPRESENTATIVE VIRGILIO S. LACSON**

EXPLANATORY NOTE

One of the most challenging tasks in drafting bills is finding a balance between public good and private rights. Individual rights and freedoms are never absolute, but state policies and laws are always construed in favor of said freedom. However, an exemption to this rule is the common good requirement, such as public safety and public health, or when public interests are involved.

Over the course of many months, we have seen unsettling news about how money lenders take advantage of borrowers by requiring them to surrender their ATM payroll cards or their government benefits cash card as collateral for loans. The practice has become widespread that various Government agencies express concern.

In fact, on April 18, 2020, Department of Education Secretary Leonor Magtolis Briones issued a Memorandum order OM-OSEC-2020-006 reminding all DepEd employees to refrain from using ATM Payroll cards as collateral for loans or engaging in the ATM Sangla Scheme or ATM Card Pawning. It was reported that countless of our beloved teachers are forced to surrender their ATMs to money lenders as collateral.

Similarly, another disturbing news that has been going on recently is the 4Ps Sangla scheme. In this setup, beneficiaries of 4Ps pawn their cash cards as collateral for loan obligations from unregulated money lenders. For instance, in Davao City alone, there are 186 reported cases for cash card pawning for the month of February 2019. Undoubtedly, there are still many unreported cases all over the country that go unnoticed.

While the same may be viewed as a purely private transaction between two consenting parties, the State needs to look into this practice of "ATM Sangla scheme", which no less than the Bangko Sentral has described as "a dangerous scheme, for it exposes borrowers to identity theft and unauthorized use of personal data possibly for unlawful activities." This scheme has become so rampant that the public has grown used to it, and sees it as a regular occurrence, without realizing that many lenders take advantage of the borrower's vulnerability.

It is high time that we put a stop to this form of unfair business practice by imposing penalties against those who engage in the same, and protect the public from these unscrupulous practices.

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



HON. VIRGILIO S. LACSON
Manila Teachers Partylist

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**AN ACT
DEFINING ATM PAWNING SCHEME, AND PRESCRIBING PENALTIES THEREFOR**

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

Section 1. Short Title. – This Act shall be known as the “Anti-ATM Pawning Scheme Act.”

Section 2. Declaration of Policy. – It is hereby declared the policy of the State to promote the protection of each citizen’s right to property and general welfare as an essential part of enjoyment of the blessings of democracy. To this end, the State shall develop policies and initiate means to discourage the unauthorized claiming of another person’s benefits, wages, salaries and remuneration. Further, it shall be the policy of the State to regulate the operation of money lenders or lending entities, to prevent and mitigate, as far as practicable, practices prejudicial to public interest; and to impose criminal penalties to those who would undermine existing policies aimed at protecting the public.

Section 3. Definition. – As used in this Act, the following terms shall be defined –

- a. “*ATM pawning scheme*” refers to the act of pawning the ATM card of an individual as collateral for payment of loan obligations.
- b. “*ATM card*” refers to an automated teller machine card through which the wages, salaries, and other remunerations of a person may be deposited or withdrawn.
- c. “*Cash card*” refers to the card through which identified beneficiaries of Government programs receive their monetary benefits.
- d. “*Government benefits*” refers to the amount of money received by a qualified beneficiary, provided by the State through any of its programs, including but not limited to conditional cash transfers, pensions, scholarships.
- e. “*Unfair Trade Practice in Lending*” refers to the use of deceptive, fraudulent, or unethical methods to obtain business from borrowers. This practice would include misrepresentation, false advertising, deceptive pricing and non-accreditation with any government regulatory body.
- f. “*Issuing Entity*” refers to the entity which issues the cash card/ ATM card.



Section 4. Construction. – This Act shall be liberally construed to promote the protection and welfare of beneficiaries, employees, and workers.

Section 5. Prohibited acts. – Any person who engages in the business of money lending and profits from the same, by exacting payments for due and demandable obligations, through any of following means shall be guilty of the violation of this Act:

- a. Claiming any government benefits from the ATM/cash card of a qualified beneficiary without the latter's express authority stating cause why he or she cannot claim the benefit himself or herself;
- b. Withdrawing or causing the withdrawal of any amount from the ATM card of a worker, laborer, or employee, without the latter's express authority stating cause why he or she cannot claim the salary or remuneration himself or herself;
- c. Disposing, withholding, transferring, or otherwise possessing of the ATM/cash card necessary for the claim of a government benefit, to a person other than the intended government beneficiary;
- d. Employing any unfair trade practice in lending, such as, but not limited to, misrepresentation, false advertising, deceptive pricing and non-accreditation with any government regulatory body.

Section 6. Penalties. – Any person who willfully or knowingly does or who shall aid, permit, or cause to be done any of the acts declared to be unlawful in Section 5 of this Act, or who violates the provisions thereof, or of any order issued thereunder, or aids, permits, or causes such violation shall, upon conviction thereof, be penalized with the imprisonment of not less six (6) months but not more than one (1) one year, and a fine of not less than one hundred thousand pesos (P100,000.00).

Section 7. Prima Facie Evidence. – The possession or custody of 5 or more ATM cards or cash cards belonging to another shall be prima facie evidence that a violation of this Act has been committed, and therefore shall be immediately confiscated from said unauthorized person in possession, control, or custody thereof, by the appropriate law enforcement officer.

Section 8. Data Protection. – The apprehending officer, after filing the proper complaint, shall immediately cause the cancellation of the instrument, informing the owner thereof. Any data necessary for the prosecution of the offense shall be preserved or retrieved as needed through subpoena. The apprehending officer shall ensure protection of data and integrity of the intended payroll holder's account, cancelling the reported instrument and all other necessary implements thereof, informing all its branches and the intended payee of such cancellation.

Section 9. Duty of Card Issuer. – In cases wherein, the cash card/ATM card has been surrendered to any person engaged in the business of money lending, who collects the same for the purpose of exacting payment, the issuing entity has the mandatory duty to issue replacement card, and cause the cancellation of the surrendered cash card or ATM card, at any time upon the request of the depositor/ account holder.

Section 10. Implementing Rules. – Within sixty (60) days from the effectivity of this Act, all concerned government agencies and relevant stakeholders shall issue the appropriate implementing rules and regulations of this Act.



Section 11. Separability Clause. – If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

Section 12. Repealing Clause. – All laws, decrees, orders, rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

Section 13. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in any newspaper of general circulation.

Approved,

A handwritten signature in black ink, appearing to read 'V. Placer', located in the bottom right corner of the page.