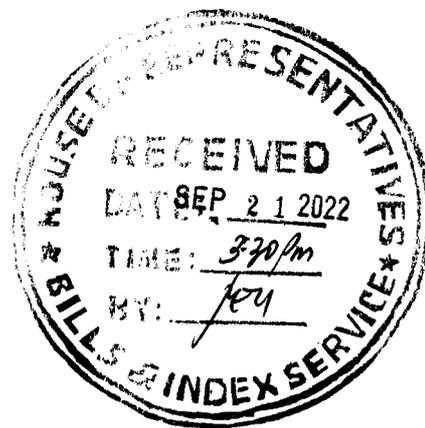


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5073



Introduced by Representative Ivan Howard A. Guintu

EXPLANATORY NOTE

The COVID-19 pandemic and its ensuing quarantine arrangements has led to two key market effects. First is increase in online transactions where people started gaining confidence in purchasing without having to go physically to the stores. Second is the increase in digital payment transactions.

As concerns in the spread of the COVID-19 grew, many of our countrymen turned to digital payments as a means to send value without fomite-mediated virus transmission using paper cash and coins.

According to the 2021 Visa Consumer Payments Attitudes Study, 60 percent of the 1,000 respondents from Manila, Cebu, Cavite, Rizal, and Bulacan, carried less cash in their wallets and 84 percent tried going cashless. Respondents prefer using mobile wallets, 64 percent; card payment online, 52 percent; card payment at physical merchants, 44 percent; and quick response (QR) payments, 31 percent.¹

According Visa Country Manager for the Philippines and Guam Dan Wolbert said importance of cashless transactions and digital payments was appreciated during the pandemic, following the movement restrictions imposed to address the spread of coronavirus disease 2019 (Covid-19). "While cash is still commonplace in the Philippines, the preference for cashless payments is clearly gaining momentum. Our study showed more Filipinos are confident to get by without cash and for longer periods of time -- with more than half feeling confident to get by for a week or longer, as cashless payment options grow," he added.²

¹ Villanueva, Joan. Philippine News Agency. 29 March 2022. *Digital payments growth seen to remain robust post-pandemic*. Retrieved from: <https://www.pna.gov.ph/articles/1170948>

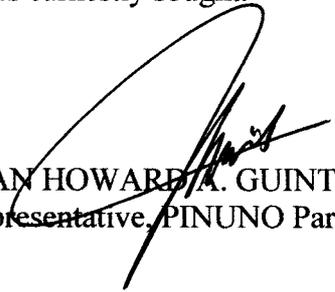
² *Ibid.*

Patuloy po ang paglaki ng tiwala ng marami nating kababayan sa tinatawag na digital payments gaya po ng credit cards at e-wallet. Sa katunayan po, may mga LGU po tayo na nakapagbibigay ng ayuda gamit ang e-wallet. Bagama't pangunahin pa rin ang pag-gamit ng pananalapi, marapat na po natin tanggapin na magiging permanenteng bahagi po ng ating komersyo ang digital payments.

This bill mandates government offices to adopt digital transaction systems to allow them to pay and receive digital currency. It likewise mandates various government agencies to work together to promote digital payment transactions.

In doing so, we hope that we will help in stimulating our economy by facilitating faster and more secure transactions using online platforms.

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



IVAN HOWARD K. GUINTU
Representative, PINUNO Partylist

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

NINETEENTH CONGRESS
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HOUSE BILL NO. 5073

Introduced by Representative Ivan Howard A. Guintu

AN ACT
PROMOTING THE ADOPTION OF DIGITAL PAYMENTS FOR FINANCIAL
TRANSACTIONS OF THE GOVERNMENT AND ALL MERCHANTS AND FOR
OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as the “Use of Digital Payments Act.”

SEC. 2. *Declaration of Policy.* – The State recognizes the vital role of information and communications technology particularly technology, towards financial inclusion advancement and nation-building. The State also recognizes the need of promoting ease of doing business and efficient delivery of goods and services to the general public. Towards this end, the State shall promote financial inclusion through the use of safe, secure, and efficient digital payments. In various transactions of the government and the public – particularly for payments to government, and government disbursements to the public, which includes but is not limited to payments to or by private institutions, merchants, and beneficiaries, the State shall optimize the use of financial technologies and innovative payment systems for financial transactions and to strengthen financial inclusion. In so doing, the State shall encourage and facilitate the adoption of digital payments in a technology-neutral manner, where one technology is not unreasonably favored or given undue advantage over another.

SEC. 3. *Objective.* – This Act aims to facilitate transactions, arrangements, or exchanges of goods and services by promoting the universal use of safe, affordable and efficient digital payments in financial transactions of the government and the general public.

SEC. 4. *Definition of Terms.* – As used in this Act, the following terms shall mean:

- i. *Access device* refers to any card, plate, code, account number, electronic serial

number, personal identification number, mobile device, or other information and communications technology service, equipment or Instrumental Identifier, or other means of account access that can be used to obtain money, goods, services, or any other thing of value, or to initiate a transfer of funds in electronic form;

- ii. *Account-based disbursement* refers to the disbursement of funds such as salaries, wages, allowances, and social benefits, among others, directly into the transaction account of the intended recipient held in any Bangko Sentral ng Pilipinas (BSP)-supervised entity as chosen and specified by the intended recipient;
- iii. *Basic deposit account (BDA)* refers to the deposit product offered by banks as defined under the BSP Manual of Regulations for Banks and its implementing guidelines;
- iv. *Digital collection* refers to a mode of payment wherein businesses and citizens make payments to the government, including but not limited to, taxes, fees, and tolls, using a digital device such as mobile phone, point of sale, or computer. Payments can be made with bank transfers, electronic money, and payment cards including credit, debit, prepaid, or stored-value cards, among others;
- v. *Digital disbursement* refers to a mode of payment whereby disbursement of money or equivalent electronic representations of legal tender, for purposes of paying government expenditures, is made by crediting the target recipient's transactions account through advice to debit or electronic fund transfer facilitated by any government agency or instrumentality through their respective servicing bank;
- vi. *Digital Payments* refers to monetary payment transactions between two parties through a digital payment instrument in which both the payer and the payee use an electronic channel;
- vii. *Electronic fund transfer* refers to a transfer of funds between two transaction accounts in the same or different BSP-supervised financial institutions which are initiated and received using electronic devices and channels to transmit payment instructions;
- viii. *Electronic money (e-money)* refers to electronically-stored monetary value which is issued in accordance with the BSP Manual of Regulations for Banks and the manual of regulations for non-bank financial institutions;
- ix. *Financial inclusion* refers to the state wherein there is effective access to a wide range of financial products and services for all Filipinos;

- x. *Government Servicing Payment Service Provider (PSP)* refers to bank and non-bank PSPs authorized to accept government funds and perform payment services on behalf of government entities. This includes authorized government depository banks (AGDBS) as defined by Department of Finance (DOF) regulations;
- xi. *Information security standards* refers to standards which aim to protect and secure the confidentiality, integrity, availability, authenticity, and non-repudiation of information and the data privacy of users of any digital payment platforms and other parties involved therein;
- xii. *Merchant* refers to a person or entity engaged in buying and selling merchandise, purchasing of services, skills or expertise, and leasing of goods and services;
- xiii. *Micro-payment transactions* refers to low-value payments including but not limited to payments to sari-sari store owners, wet market vendors, as well as tricycle and jeepney drivers, the actual thresholds of which shall be determined by the BSP, pursuant to the objectives of this Act;
- xiv. *Payment Service Provider (PSP)* refers to an entity, such as bank or non-bank electronic money issuer, that provides payment services to end-users, such as consumers, merchants, and billers, including government institutions;
- xv. *Payment system* refers to the set of payment instruments, processes, procedures and participants that ensures the circulation of money or movement of funds, which comply with the requirements set forth under Republic Act No. 11127 or the National Payment System Act;
- xvi. *Transaction Account* refers to an account, such as but not limited to a BDA, or e-money account held with a BSP-supervised financial institution that can be used to store, send, and receive funds.

SEC. 5. Adoption of Digital Payments for Government Disbursements. – All government entities, including but not limited to national government agencies (NGAs), foreign-based government agencies, all government corporations, local government units (LGUs), State Universities and Colleges (SUCs), and local universities and colleges (LUCs), are hereby mandated to utilize safe, and efficient digital disbursement in the payment of goods, services, and other disbursements including but not limited to cash assistance and payments of salaries, wages, allowances, and honoraria of its employees, whatever nature of appointment. Government entities shall be allowed to disburse funds directly into the recipient's or beneficiary's transaction account held in government or private financial institutions without the need for special arrangement with each of these financial institutions. For this purpose, said

government entities may use the automatic debit arrangement interoperable electronic fund transfer or any other appropriate facility of its government servicing PSP.

Accountable officers of the government entities shall observe due diligence in ensuring the accuracy of the recipient's or beneficiary's identity. Uses of government funds through direct crediting shall remain transparent to state auditors.

Government entities shall be responsible for preparing the payment instruction with the necessary details, including the recipient's or beneficiary's name, transaction account details, and amount, among others, only after proper authorization in accordance with established accounting and auditing rules and regulations.

The government servicing PSP shall carry out the payment instruction and submit the verified list of successful and failed fund transfers and other relevant details to the government entity disbursing the fund. Subject to the agreement with the government entity, the government servicing PSP may collect fees from the government entity for the electronic fund transfer services.

In case of unsuccessful digital disbursement, there shall be a recovery mechanism that will ensure the continuity of delivery of payment services: *Provided*, That in cases of calamities or other emergencies, where payments through digital means may be affected, non-digital payout channels may be explored.

SEC. 6. Adoption of Digital Payments for Government Collections. – All government entities, including but not limited to national government agencies (NGAs), foreign-based government agencies, all government corporations, local government units (LGUs), State Universities and Colleges (SUCs), and local universities and colleges (LUCs), shall offer digital collection as a mode, in addition to acceptance of cash payment, for the collection of taxes, fees, tolls, imposts and other revenues, including non-income collections and receipts.

Government entities shall utilize secure payment processing solutions to ensure acceptance of various digital payment methods. For this purpose, said government entities may engage the services of established PSPs: *Provided*, That government entities shall avail only of interoperable digital payment solutions. Notwithstanding any law to the contrary, partner PSP of a government entity shall not be limited to government servicing banks.

SEC. 7. Adoption of Interoperable Digital Payment Solutions. – The BSP shall implement initiatives that aim to accelerate the adoption by all PSPs of interoperable digital payment technologies and appropriate standards thereof, such as but not limited to the National Quick Response (QR) Code Standard meant to hasten the interoperability of QR-driven payment services and eliminate the need for merchants and clients to maintain several accounts.

In addition, NGAs, government corporations, SUCs, LGUs, and merchants shall undertake measures to promote the adoption of the Open Finance Framework in accordance

with the guidelines set forth under the applicable BSP rules and regulations which will enable sharing of customer-permissioned financial data and foster adherence to data security and privacy standards.

The digital payment solutions adopted by government entities shall allow for real-time receipt of funds by the recipient government entity, immediate issuance of electronic invoices and/or official receipts to payors, regular audit reports, and other technical features that will aid in the fulfillment of the objectives of this Act. To ensure that these digital payment solutions adhere to applicable international standards on information security, data privacy, and electronic data interchange between financial institutions, among others, government entities shall avail of digital payment solutions under the BSP's National Retail Payment System Framework.

Existing agreements between government entities and PSPs shall be honored until the respective terms thereof expire: *Provided*, That parties concerned shall endeavor, within one year from the effectivity of this Act, to implement amendments to such agreements with intention to remove provisions detrimental to public interest. In all instances, collection and payment schemes that prevent transparency and accountability over public funds, as well as arrangements disadvantageous to the government, shall be discontinued.

There shall be a technical working group (TWG) composed of the Commission on Audit (COA), Department of Budget and Management (DBM), Department of Finance (DOF), Bureau of the Treasury (BTr), Bureau of Internal Revenue (BIR), the Government Procurement Policy Board, and other relevant agencies that will provide guidance and promote cost-efficiency and transparency in procurement of digital payment solutions by government entities. Consistent with the respective mandates of the member-agencies, and in coordination with the COA, the TWG shall have the following powers and functions:

- a) Oversee and monitor the procurement of digital payment solutions by government entities and ensure that the same is in accordance with existing laws, rules and regulations;
- b) Consider the formulation of standard terms and condition for PSPs, in consultation with the BSP and COA. Pursuant to its mandate, the GPPB may also issue specific procurement guidelines for the engagement of PSPs;
- c) Resolve issues relative to the implementation of this Act, without prejudice to the individual member-agencies resolving such concerns pursuant to their respective mandates;
- d) Call on any department, agency or office under the Executive Branch for the effective implementation of this Act; and
- e) Perform such other function pursuant to the fulfillment of the objectives of this Act.

SEC. 8. *Establishment of a Government Payment Gateway.* – The BSP, in consultation with the DOF, DBM, COA, Department of Information and Communications Technology (DICT), BIR, Bureau of Customs (BoC), Bureau of the Treasury (BTr), digital banking experts, academe, and other appropriate public sector and banking industry stakeholders, may cause the establishment of a government payment gateway through which all government entities may process digital payments made to them through PSPs, websites, mobile phone applications, or other access devices.

The government payment gateway shall allow for real-time settlement of accounts and receipt of funds by the recipient government entity, immediate issuance of electronic invoices and/or official receipts to payors, regular audit reports, interoperability between the digital payment technologies, and other technical features that will aid in the fulfillment of the objectives of this Act. Said gateway shall adhere to relevant international standards on information security, data privacy, and electronic data interchange between financial institutions.

SEC. 9. *Digital Capability of Merchants.* – To accelerate the adoption of digital payment, LGUs shall, by ordinance, encourage and grant monetary and non-monetary incentives to merchants within their localities to establish and/or outsource arrangements and/or mechanisms that would enable them to receive payments from clients and make payments to creditors and suppliers using digital channels.

LGUs shall ensure that merchants in their jurisdictions have access to appropriate digital payment solutions and have capacity to effectively use the same with due consideration to small and micro-merchants, including, but not limited to, market vendors, tricycle operators and food stalls. The LGU shall extend assistance to small and micro merchants to facilitate their adoption of digital transaction capability. The BSP, Department of Trade and Industry (DTI), DILG, and DICT shall provide capacity building for the NGAs, government corporations, SUCs, LGUs, and merchants on the use of digital payments.

SEC. 10. *Promotion of Digital Payment Transactions.* – To optimize the benefits of digital payments, scale up financial institution, and promote sustainability, all government entities shall prioritize the use of safe and efficient digital payment in their financial transactions.

All government entities covered by this Act shall also adopt a comprehensive incentive framework for selected financial transactions to encourage the use of digital payments. LGUs shall, likewise, grant relevant incentives for merchants providing efficient digital payment systems.

The BSP, in coordination with relevant stakeholders, shall promote measures on financial and digital literacy, and consumer protection to strengthen the public's trust in digital payment transactions.

To enable the general public to adopt digital payments, micro-payment transactions shall be subject to graduated pricing or be rendered free of any service charge as determined by the BSP in consultation with the merchants and the payment services industry, as may be represented by the BSP-accredited payment system management body.

The DICT shall implement measures to further enhance the availability, accessibility, reliability, and cost-efficiency of internet services to support the Government's program on the digitalization of financial transactions.

SEC. 11. *Multi-Year Roadmap for Digital Payment Adoption.* – The BSP, in collaboration with relevant government entities, shall prepare and regularly update a multi-year roadmap on digital payments to ensure the timely implementation and optimal realization of the objectives of this Act.

The Multi-year Roadmap shall be aligned with the e-government masterplan formulated by the DICT in consultation with other key government agencies, and shall, among others, set targets and outcomes, such as but not limited to the widespread adoption of digital payments by merchants, for a minimum period of five (5) years, and include strategic public and private interventions and possible government programs and projects. The roadmap shall be subject to annual review.

SEC. 12. *Transitory Provision.* – Government entities shall be responsible for ensuring proper transition of their respective agency's disbursement and collection procedures and policies to digital payments.

Digital disbursement shall be implemented within six (6) months from the issuance of the implementing rules and regulations (IRR) of this Act.

For the implementation of digital collections, a tiered transition period not exceeding three (3) years from the issuance of the IRR shall apply. The tiering guidelines, to be established by the TWG as part of the IRR, shall reflect differentiated transition timeframes based on the readiness and capability of the government entities. Government entities deemed capable and ready based on defined criteria shall be required to implement digital collection within a shorter transition period while others may be allowed a longer transition period but not to exceed three (3) years.

SEC. 13. *Information Security and Data Privacy.* All data information and information and communications technology systems and networks, used for digital payments pursuant to the objectives of this Act shall be secured and protected at all times. The DICT and the National Privacy Commission shall, in consultation with the BSP, define and prescribe the minimum information security standards or compliance of PSPs who are covered by this Act and are not under the oversight and regulatory authority of the BSP.

SEC. 14. *Obligations of Payment System Providers.* – In line with the declared policy in this Act, all PSPs shall have the following obligations:

- a) Integrate security and data privacy by design and by default in the development stage of the payment systems;
- b) Process personal and sensitive personal information in the system in accordance with any of the criteria for lawful processing provided for under the relevant laws, rules and regulations;
- c) Implement reasonable and appropriate organizational, physical and technical security measures for the protection of personal data and uphold the rights of data subjects;
- d) Provide reasonable and timely assistance to NGAs, government corporations, LGUs, SUCs, and/or merchants, in accordance with relevant rules and regulations, to enable them to respond to a request from clients to exercise any of their rights and any other correspondence, inquiry or complaint received from a client or other third party in connection with the processing of the personal data in the payment system;
- e) The PSP performing the function of collection of money and/or payment of transaction on behalf of the government agency shall, to the extent necessary, cooperate with the COA for the examination, audit, and settlement of all accounts pertaining to the revenue and receipts, and expenditures or uses of funds of all NGAs, government corporations, SUCs, and LGUs. The PSP shall allow COA to perform its audit procedures and to determine whether collections are complete, and use of funds are authorized;
- f) Comply with the requirements indicated in the standard terms of reference or standard minimum terms and conditions that may be issued by the TWG.

SEC. 15. *Penalties and Sanctions.* – Without prejudice to the penalties and sanctions provided in Republic Act No. 11127 or “The National Payment Systems Act” and other laws, whenever any person or entity willfully violates this Act, rule or regulation, directives or orders duly promulgated by the BSP pursuant hereto, the person or persons responsible for such violation shall be punished by a fine of not less than Two hundred thousand pesos (P200,000.00) or more than Two million pesos (P2,000,000.00) or by imprisonment of not less than two (2) years nor more than ten (10) years, or both, at the discretion of the court.

SEC. 16. *Interpretation.* – Nothing in this Act shall be construed to exempt any government funds in the possession of private entities from the constitutional authority and duty of the COA to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to,

the government. All digital payments involving government transactions under this Act shall be subject to post-audit of the COA. Accordingly, the COA shall promulgate the pertinent rules and regulations for all transactions covered by this Act.

SEC. 17. Appropriations. – Government entities may be allowed to include in their respective budget amounts that will cover the reasonable costs of establishing and maintaining the infrastructure, system and/or processes adjustments as well as transaction fees that they may shoulder in connection with the implementation of digital payments, including but not limited to, merchant discount rate, processing fees, cash-out fees and administration fees: *Provided*, That the release of said budget may be conditioned on the actual adoption of digital payments by the concerned government entities.

Government entities may also top-up cash assistance with a standard amount to cover any transaction fees that may be incurred by recipients or beneficiaries when claiming or withdrawing said cash assistance from their respective transaction accounts.

The amount necessary for the implementation of the provisions of this Act shall be taken from the current year's budget of the NGAs, government corporations, SUCs and LGUs. Thereafter, such sums as may be necessary for the continued implementation of the Act shall be incorporated in the annual General Appropriations Act, corporate operating budget, or appropriation ordinance, as the case may be.

SEC. 18. Implementing Rules and Regulations. – The BSP, in coordination with the DBM, COA, DOF, BTR, BIR, DICT, DOST, DILG, DTI, and **other** relevant agencies, shall promulgate the rules and regulations implementing the provisions of this Act within ninety (90) days from its effectivity.

SEC. 19. Separability Clause. – If for any reason, any part or provision of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 20. Repealing Clause. – All laws, presidential decrees, executive orders, rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 21. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of national circulation.

Approved,