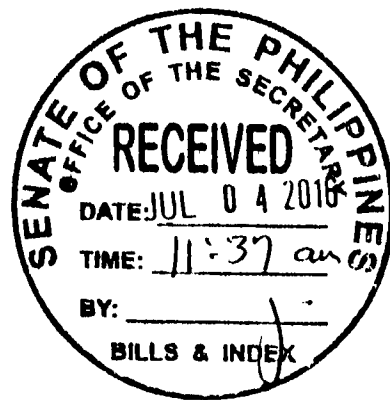


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE

S.B. No. 306



Introduced by Sen. Juan Miguel F. Zubiri

**AN ACT
FORTIFYING THE PEOPLE'S RIGHT OF OWNERSHIP OVER INFORMATION
HELD BY THE PEOPLE'S GOVERNMENT**

EXPLANATORY NOTE

Article III, Section 7 of the Constitution states that it is the public's right to obtain information on matters of public concern, as provided, access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

For the past years, public has been clamoring for the passage of a law that will give them full access to information and public disclosure of official documents. Though this august chamber never fails to heed to public's demand on the matter, as it pass every congress the Freedom of Information (FOI) bill but because of the complexities of a bicameral congress, the enactment of such important piece of legislation has always been denied. With the new administration's commitment to abhor secrecy and its desire for transparency to regain the people's trust, FOI will no longer be just a dream for the Filipino people.

Accordingly, an Executive Order on Freedom of Information has been drafted and may be ready for signing by President Rodrigo Duterte, but such will only apply to offices under the executive branch. If such is the case, an FOI law with broader coverage that will require all government entities, including those in the legislature and judiciary, to release documents detailing their transactions and projects.

The proposed measure seeks to mandate public disclosure of official documents. It also outlined the exceptions to such disclosures and the procedures for obtaining official documents.

This measure is long overdue. More than 29 years since the Filipino people overwhelmingly ratified our present Constitution, Congress must continue to strive to increase both reliability and accuracy of this aspect of government and improve the rate at which our citizens exercise their "*Right to Information*".

Thus, an expedited passage of this measure is earnestly sought.

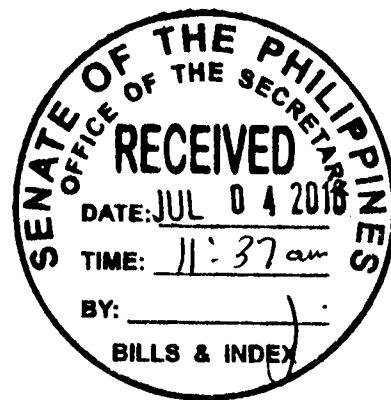


JUAN MIGUEL F. ZUBIRI

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

1 **SECTION 1. Short Title.** - This Act shall be known as the "*People's*
2 *Ownership of Government Information (POGI) Act of 2016.*"

3 **SEC. 2. Declaration of Policy.** - Pursuant to the First Principle declared in Our
4 Constitution that Sovereignty resides in the people and all government authority
5 emanates from them, the right of the people to effective and reasonable participation at
6 all levels of social, political and economic decision making, the right of the people to
7 information on matters of public concern, and the policy of full public disclosure of all
8 government transactions involving public interest, it is hereby declared that All
9 Government Information is owned by the People and that public access to all
10 government information, as a general rule, serves the public interest and exceptional
11 instances restricting access thereto, as provided herein, shall only be allowed also by
12 reason of public interest.

13 **SEC. 3. Coverage.** - This Act shall cover all branches, departments, and
14 instrumentalities of government, including all local government units, collectively
15 referred to as government agencies defined under Section 4 of this Act.

16 **SEC. 4. Definition of Terms.** - As used in this Act:

17 (a) "Information" shall mean any record, document, paper, report, letters, contract,
18 minutes and transcripts of official meetings, maps, books, photographs, data, research
19 material, film, sound and video recordings, magnetic or other tapes, electronic data,
20 computer stored data, or any other like or similar data or material recorded, stored or
21 archived in whatever form or format, which are made, received or kept in or under the
22 control and custody of any government agency pursuant to law, executive order, rules
23 and regulations, ordinance or in connection with the performance or transaction of
24 official business by any government agency.

25 (b) "Government agency/agencies" shall include the executive, legislative and judicial
26 branches as well as constitutional bodies of the Republic of the Philippines including, but
27 not limited to, the national government and all its agencies, departments, bureaus,
28 offices and instrumentalities, constitutional commissions and constitutionally mandated

1 mandated bodies, local governments and all their agencies, regulatory agencies,
2 chartered institutions, government-owned or controlled corporations, including
3 wholly-owned or controlled subsidiaries, government financial institutions, state
4 universities and colleges, the Armed Forces of the Philippines, the Philippine National
5 Police, all offices in the Congress of the Philippines including the offices of Senators
6 and Representatives, the Supreme Court and all lower courts established by law.

7 (c) "Official record/records" shall refer to information produced or received by a
8 public officer or employee, or by a government agency in an official capacity or
9 pursuant to a public function or duty, regardless of whether the information is in the
10 draft, final, or any other stage or status.

11 (d) "Public record/records" shall include information required by law,
12 executive orders, rules, or regulations to be entered, kept and made publicly available
13 by a government agency.

14 **SEC. 5. Access to Information.** - Every Filipino citizen has a right to and shall, on
15 request, be given access to any record under the control of a government agency
16 Government agencies shall make available to the public for scrutiny, copying and
17 reproduction in the manner provided by this Act, all information pertaining to official
18 acts, transactions or decisions, as well as government research data used as a basis
19 for policy development, subject to the exceptions enumerated under section 7 of this
20 Act, regardless of their physical form or format in which they are contained and by
21 whom they were made.

22 **SEC. 6. Presumption.** - There shall be a legal presumption in favor of
23 access to information. No request for information shall be denied unless it clearly falls
24 under the exceptions provided under this Act.

25 **SEC. 7. Exceptions.** - Access to information shall be granted unless:

26 (a) The information is specifically authorized to be kept secret under guidelines
27 established by an executive order, and in fact properly classified pursuant thereto:
28 *Provided*, That 1) The information directly relates to national security or defense and
29 Its revelation may cause grave damage to the national security or internal and
30 external defense of the State; or 2) The information requested pertains to the foreign
31 affairs of the Republic of the Philippines, when its revelation may weaken the
32 negotiating position of the government in an ongoing bilateral or multilateral
33 negotiation or seriously jeopardize the diplomatic relations of the Philippines with any
34 state; *Provided, further*, That the executive order shall specify the reasonable period
35 after which the information shall be automatically declassified or subject to
36 mandatory declassification review, and that any reasonable doubt as to classification
37 and declassification shall be settled In favor of the right to information;

38 (b) The information consist of records of minutes, records of advice
39 given or records of opinions expressed during decision-making or policy formulation,
40 invoked by the Chief Executive to be privileged by reason of the sensitivity of the
41 subject matter or by reason of the impairment of the Chief Executive's deliberative
42 process that would result from the disclosure thereof. Once policy has been
43 formulated and decisions made, minutes and research data may be made available
44 for disclosure unless they were made in executive session.

45 (c) The information requested pertains to internal and/or external
46 defense, law enforcement, and border control, when the disclosure thereof may:

- 1 (1) compromise or interfere with any legitimate military or law enforcement
2 operation, or
- 3 (2) compromise or interfere with the legitimate prevention, detection or suppression
4 of criminal activity, or the legitimate implementation of immigration controls and
5 border security, or
- 6 (3) lead to the disclosure of the identity of a confidential source, including a
7 government, or foreign agency or authority or any private institution which furnished
8 information on a confidential basis, and, in the case of a record or information
9 compiled by a law enforcement authority in the course of an investigation or by an
10 agency conducting a lawful national security intelligence investigation, information
11 furnished by a confidential source, or
- 12 (4) disclose legitimate techniques and procedures for law enforcement investigations
13 or prosecutions, or would disclose legitimate guidelines for law enforcement
14 investigations or prosecutions if such disclosure could reasonably be expected to risk
15 circumvention of the law, or
- 16 (5) endanger the life or physical safety of any individual.
- 17 (d) The information requested consists of drafts of orders, resolutions, decisions,
18 memoranda or audit reports by any executive, administrative, regulatory,
19 constitutional, judicial or quasi-judicial body in the exercise of their regulatory, audit
20 and adjudicatory function.
- 21 (e) The information requested is obtained by either House of Congress, or any
22 committee thereof, in executive session.
- 23 (f) The information requested pertains to the personal information of a natural person
24 other than the requesting party, and its disclosure would constitute an unwarranted
25 invasion of his or her personal privacy, unless it forms part of a public record, or the
26 person is or was an official of a government agency and the information relates to his
27 or her public function or the person has consented, in writing, to the disclosure of the
28 information;
- 29 (g) The information requested pertains to trade secrets and commercial or
30 financial information obtained from a natural or juridical person other than the
31 requesting party, obtained in confidence or covered by privileged communication,
32 and/or filed with a government agency, whenever the revelation thereof would
33 prejudice the interests of such natural or juridical person in trade, industrial, financial
34 or commercial competition;
- 35 (h) The information is classified as privileged communications in legal proceedings by
36 law or by the Rules of Court.
- 37 (i) The information requested is exempted from disclosure by law or by the
38 Constitution, in addition to those provided in this section,
- 39 (j) The information is of a nature that its premature disclosure would: (1) in the case
40 of an agency that regulates or deals with currencies, interest rates, securities,
41 commodities, or financial institutions, be likely to lead to speculations in currencies,
42 interest rates, securities, or commodities, as would seriously endanger the stability of
43 the financial or commodities market; or in (2) in the case of other agencies, be likely

1 to frustrate the effective implementation of a proposed official action: *Provided, That*
2 the information shall be disclosed once the abovementioned dangers have ceased.

3 (k) The information has already been made accessible as provided in Section 13 of
4 this Act.

5 For letters (c) to (k) of this section, the determination whether any of these grounds
6 shall apply shall be the responsibility of the head of office of the government agency
7 In custody or control of the information, or any responsible central or field officer/s
8 duly designated by him: *Provided, That*:

9 (1) The exceptions are strictly construed;

10 (2) The exceptions are not used to cover-up a crime, wrong-doing, graft, or
11 corruption:

12 (3) The President, the Supreme Court, the Senate, the House of Representatives, and
13 the Constitutional Commissions may waive an exception with respect to information
14 in the custody of offices under their respective supervision or control, when they
15 deem that there is an overriding public interest in disclosure;

16 (4) The exceptions do not constitute authority to withhold information from Congress
17 nor authority for the executive branch of a local government unit to withhold
18 information from the legislative body of such local government unit;

19 (5) Whenever the information requested is part of a record, whose other parts are
20 covered by an exception, but may be reasonably severed from a record, the
21 responding official shall communicate the information not covered by the exception to
22 the requester; and

23 (6) The exceptions set forth in this section may be overcome if the requester is able
24 to prove before the Ombudsman or a court of competent jurisdiction that the public
25 interest in the disclosure of the information outweighs public interest in in keeping
26 the information secret or confidential.

27 **SEC. 8. Mandatory Disclosure of Information.** - Government agencies are
28 mandated to regularly disclose the following information in the duration and manner
29 provided hereunder:

30 (a) In fulfillment of Article XI, Section 17 of the Constitution, the following national
31 officials shall disclose to the public, through their official website, their Statement of
32 Assets, Liabilities, and Net worth (SALN) on an annual basis:

33 (1) the President;

34 (2) the Vice- President;

35 (3) the Members of the Cabinet;

36 (4) the Members of Congress;

37 (5) the Justices of Supreme Court;

38 (6) the Members of Constitutional Commissions and other constitutional offices; and

- 1 (7) officers of the armed forces with general or flag rank.
- 2 (b) All agencies of all branches of government shall upload on their websites. which
3 shall be updated monthly, a register of the following public interest transactions,
4 documents or records, including:
 - 5 (1) Annual Budget of Government Agencies;
 - 6 (2) Itemized Monthly Collections and Disbursement;
 - 7 (3) Summary of Income and Expenditures;
 - 8 (4) Component of the IRA Utilization;
 - 9 (5) Annual Procurement Plan and Procurement List;
 - 10 (6) Items to Bid;
 - 11 (7) Bid Results on Civil Works, and Goods and Services;
 - 12 (8) Abstract of Bids as Calculated;
 - 13 (9) Procurement contracts entered into by a government agency;
 - 14 (10) Construction or concession agreements or contracts entered into by a
15 government agency with any domestic or foreign person or entity;
 - 16 (11) Private sector participation agreements or contracts in infrastructure and
17 development projects under Republic Act No. 6957, as amended by Republic Act No.
18 7718, authorizing the financing, construction, operation and maintenance of
19 infrastructure projects;
 - 20 (12) Public funding extended to any private entity;
 - 21 (13) Bilateral or multilateral agreements and treaties in trade, economic partnership,
22 investments, cooperation and similar binding commitments;
 - 23 (14) Licenses, permits or agreements granted by any government agency
24 to any person or entity for the extraction and/or utilization of natural resources and a
25 list of the grantees;
 - 26 (15) Guarantees given by any government agency to government-owned
27 or -controlled corporations and to private corporations, persons or entities;
 - 28 (16) Loans from domestic and foreign financial institutions;
 - 29 (17) Loans, grants, development assistance, technical assistance, and programs
30 entered into by a government agency with official bilateral or multilateral agencies, as
31 well as with private aid agencies or institutions; and
 - 32 (18) Compromise agreements entered into by a government agency with any person
33 or entity.

1 The register shall contain a brief description of the transaction involved, including,
2 but not limited to: the nature and object of the transaction, the parties and amounts
3 involved, the key steps undertaken towards its conclusion, and the relevant dates
4 provided that contracts and agreements involving an amount of at least Fifty million
5 pesos (P50, 000,000.00) shall be uploaded in full on the website of the concerned
6 government agency or the *Official Gazette* online. A covered record shall be enrolled
7 in the register not later than 30 working days from its perfection or issuance.

8 (c) Each government agency shall regularly publish, print and
9 disseminate at no cost to the public and in an accessible form, in conjunction with
10 Republic Act 9485, or the Anti-Red Tape Act of 2007, and through their website,
11 timely, true, accurate and updated key information including, but not limited to:

12 (1) A People's Ownership of Government Information Manual in full;

13 (2) A description of its mandate, structure, powers, functions, duties and decision-
14 making processes;

15 (3) A description of the frontline services it delivers and the procedure and length of
16 time by which they may be availed of;

17 (4) The names of its key officials, their powers, functions and responsibilities, and
18 their profiles and curriculum vitae;

19 (5) Work programs, development plans, investment plans, projects, performance
20 targets and accomplishments, and budgets, revenue allotments and expenditures;

21 (6) Important rules and regulations, orders or decisions: *Provided*, That they be
22 published within fifteen (15) calendar days from promulgation;

23 (7) Rules of procedure, descriptions of forms available or the places at which forms
24 may be obtained, and instructions as to the scope and contents of all papers, reports,
25 or examinations;

26 (8) Substantive rules of general applicability adopted as authorized by law, and
27 statements of general policy or interpretations of general applicability formulated and
28 adopted by the agency, including subsequent amendments;

29 (9) Current and important database and statistics that it generates;

30 (10) Bidding processes and requirements; and

31 (11) Mechanisms or procedures by which the public may participate in or otherwise
32 influence the formulation of policy or the exercise of its powers.

33 All government agencies shall over time endeavor and build the capacity and practice
34 to upload in full all other contracts, agreements, or treaties covered under this
35 section, specially those that are of the highest public interest by reason of the
36 amounts involved and the impact of the transaction to the public. All government
37 agencies must ensure that they have a compliant website within two (2) years from
38 the effectivity of this Act.

39 Should an agency lack the capacity to comply with the website uploading requirement
40 of this section, the agency shall initiate a capacity-building program, coordinate with

1 another appropriate agency, or use an alternative mechanism, to facilitate
2 substantive compliance not later than three (3) years from the effectivity of this Act.
3 The National Computer Center shall monitor all government agency websites and
4 render the appropriate support for their development and full compliance with the
5 requirements of this Act.

6 For purposes of improving capability, every government agency shall ensure the
7 provision of adequate training for its officials to improve awareness of the people's
8 ownership of government information and the provisions of this Act, and to keep
9 updated as to best practices in relation to information disclosure, records
10 maintenance and archiving.

11 In order to develop accessibility of language and form, every government agency
12 shall endeavor to translate key information into major Filipino languages and present
13 them in popular form and means.

14 **SEC. 9. Protection of Privacy** - While providing for access to information in public
15 records, this Act also affords full protection of the right to privacy of individuals, as
16 follows:

17 (a) A government agency must ensure that personal information in its custody or
18 under its control is disclosed only as permitted under this Act;

19 (b) A government agency must protect personal information in its custody or under
20 its control by making reasonable security arrangements against such risks as
21 unauthorized access, collection, use, disclosure, or disposal;

22 (c) An employee, officer or director of a government agency who has access, whether
23 authorized or unauthorized, to personal information in the custody of the agency,
24 must not disclose that information except as authorized under this Act.

25 **SEC. 10. People's Ownership of Government Information Manual.** - (a) For
26 the effective implementation of this Act, all government agencies shall prepare a
27 People's Ownership of Government Information Manual, setting forth the following:

28 (1) The location and contact information of the head, regional, provincial and field
29 offices, and other established places where the public can obtain government
30 information or submit requests;

31 (2) The types of information it generates, produces, holds and/or publishes;

32 (3) A description of its record-keeping system;

33 (4) The person or office responsible for receiving requests for information;

34 (5) The procedure for the filing of requests personally, by mail, or through the
35 identified electronic means;

36 (6) The standard forms for the submission of request and for the proper
37 acknowledgment of the request;

38 (7) The process for the disposition of the request, including the routing of the request
39 to the person or office with the duty to act on the request, the decision-making
40 process, and the grant or denial of access and its implementation;

- 1 (8) The procedure for the administrative appeal of any denial for access to
2 information;
- 3 (9) The schedule of fees;
- 4 (10) The process and procedure for the mandatory disclosure of information under
5 Section 8 of this Act: *Provided*, That should the agency lack the capacity to fully
6 comply therewith, a brief description of its plan to facilitate compliance within three
7 (3) years from the approval of this Act; and
- 8 (11) Such other information, taking into consideration the unique characteristics of an
9 agency, that will help facilitate the effective implementation of this Act.
- 10 (b) The foregoing information shall also be posted in its website and bulletin boards,
11 and shall be regularly updated;
- 12 (c) In no case shall the absence of the aforementioned Manual be a reason for the
13 denial of any request for information made in accordance with this Act.
- 14 (d) The heads of each of the departments and agencies may designate liaison units
15 or Committees who shall coordinate with the other units of the agency in
16 implementing this Act. The composition, functions and duties of these liaison units or
17 Committees shall be included in the People's Ownership of Government Information
18 Manual.

19 **SEC. 11. Procedure of Access.** - (a) Any person who wishes to obtain information
20 shall submit, free of charge, a request to the government agency concerned
21 personally, by mail, or through electronic means. A person who is unable, because of
22 illiteracy or due to being a person with disability, to make a written request for
23 information may make an oral request, and the public official who receives the oral
24 request shall reduce it to writing, and include his name and position within the
25 government agency, and give a copy thereof to the person who made the request.
26 The request shall state the name and preferred contact information of the requesting
27 party, and reasonably describe the information required, the reason for the request of
28 the information and the preferred means by which the government agency shall
29 communicate such information to the requesting party: *Provided*, That the stated
30 reason shall not be used as a ground to deny the request or to refuse the acceptance
31 of the request, unless such reason IS contrary to law. If the request is submitted
32 personally, the requesting party shall show his current identification card issued by
33 any government agency, or government or private employer or school, or a
34 community tax certificate. If the request is submitted by mail or through electronic
35 means, the requesting party may submit a photostatic or electronically scanned copy
36 of the identification, or other convenient means as determined by the agency.

37 (b) The public official receiving the request shall provide reasonable assistance, free
38 of charge, to enable all requesters and particularly those with special needs, to
39 comply with the request requirements under this section.

40 (c) The request shall be stamped by the government agency, indicating the date and
41 time of receipt and the name, rank, title and position of the receiving public officer or
42 employee with the corresponding signature, and a copy thereof furnished to the
43 requesting party. In case the request is submitted by electronic means, the
44 government agency shall provide for an equivalent means by which the requirements

1 of this paragraph shall be met. Each government agency shall establish a system to
2 trace the status of all requests for information received by it.

3 (d) The request may indicate the requesting party's preferred mode and means of
4 receiving the information requested, provided that the mode and means are
5 reasonable, taking into consideration equipment normally available to the concerned
6 government agency.

7 (e) A government agency may communicate the information requested in a form
8 other than the preferred means whenever the agency has no capability in
9 communicating the information in the preferred format, or such preferred means
10 would unreasonably interfere with the effective operation of the agency or be
11 detrimental to the preservation of the record.

12 (f) The government agency shall comply with such request as soon as practicable,
13 and in any case within fifteen (15) working days from the receipt thereof. The period
14 may be extended whenever the information requested requires a search of the
15 government agency's field or satellite offices, examination of voluminous records, the
16 occurrence of fortuitous events or other analogous cases.

17 (g) The government agency shall, in writing or through electronic means, notify the
18 person making the request of the extension, setting forth the reasons for such
19 extension and the date when the information shall be made available, which in no
20 case shall result in an extension of more than twenty (20) working days.

21 (h) Once a decision is made to grant the request, the person making the request shall
22 be notified of such and shall pay the required access and processing fees.

23 If the information is not held by the government agency to which the request was
24 made, it shall notify the requester that it does not hold the information, and indicate
25 to the requester which agency holds the record, if known. Whenever practicable, the
26 agency receiving the request may also cause the transfer of the request to the
27 appropriate agency that holds the information: *Provided*, That the period to comply
28 with the request under this section shall begin to run only upon the receipt of the
29 agency to which the request is transferred.

30 **SEC. 12. Access and Processing Fees.** - Government agencies may charge a
31 reasonable fee to reimburse the actual cost of reproduction, copying or transcription
32 and the communication of the information requested. An agency may waive the fees
33 whenever it is satisfied that the requester is an indigent, or that the cost of
34 reproduction is negligible, or that it is pursuant to a program for proactive disclosure.

35 **SEC. 13. Exemption From Compliance.** - The government agency is excused
36 from complying with a subsequent identical or substantially similar request from the
37 same requesting party where it has previously complied with a request for
38 information unless a reasonable interval has lapsed between compliance with the
39 previous request and the making of the current request: *Provided*, That the
40 government agency complies with Section 14 of this Act.

41 **SEC. 14. Notice of Denial.** - (a) If the government agency decides to deny the
42 request, in whole or in part, it shall, as soon as practicable, and in any case within
43 fifteen (15) working days from the receipt of the request, notify the person making
44 the request of such denial in writing or through electronic means. The notice shall
45 clearly set forth the ground or grounds for denial and the circumstances on which the

1 denial is based, and indicate available rights of reconsideration or appeal. Failure to
2 notify the person making the request of the denial, or of the extension, shall be
3 deemed a denial of the request for access to information.

4 **SEC. 15. Remedies in Cases of Denial.** – (a) In all government agencies other
5 than the judicial branch:

6 (1) Every denial of a request for access to information may be contested by a
7 Request for Administrative Reconsideration to the same responsible official who
8 originally denied the request or by an Administrative appeal to the Head of Agency,
9 following the procedure mentioned in Section 10 (a) (8) and Section 14 of this Act:
10 *Provided*, That the appeal must be filed within fifteen (15) calendar days from the
11 receipt of the notice of denial and must be decided within fifteen (15) calendar days
12 from filing. Failure to resolve the appeal within the aforementioned period shall
13 constitute a denial of the appeal: *Provided further*, That every Notice of Denial shall
14 include check-box options to be checked or marked by the requester for the
15 Immediate Administrative Reconsideration or Appeal to the head of the agency. If the
16 requester, after indicating his desired remedy, submits his Request for Administrative
17 Reconsideration or Appeal with the government official communicating the Notice of
18 Denial to the requester, that government official shall be responsible for immediately
19 coursing the Request for Administrative Reconsideration or Appeal to the appropriate
20 official or head of the agency: *Provided, finally*, That the requester may, in addition
21 to and together with his Request for Reconsideration or Appeal, submit further
22 arguments to strengthen his request;

23 (2) Instead of appealing or after the denial of the appeal, the person denied access
24 to information may file a verified Complaint with the Office of the Ombudsman,
25 praying that the government agency concerned be directed to immediately afford
26 access to information being requested, Such Complaint shall be resolved by the Office
27 of the Ombudsman within sixty (60) calendar days from filing, or earlier when time is
28 of the essence, taking into account such factors as the nature of the information
29 requested context of the request, public interest and danger that the Information
30 requested will become moot. The Office of the Ombudsman shall promulgate its
31 special rules of procedure for the immediate disposition of Complaints filed pursuant
32 to this Section. Unless restrained or enjoined, the decisions of the Office of the
33 Ombudsman shall be immediately executory, without prejudice to review in
34 accordance with the Rules Court;

35 (3) Instead of filing a Complaint with the Office of the Ombudsman, whenever a
36 request for information is denied originally or on administrative appeal, the
37 requesting party may file a verified petition for mandamus in the proper court,
38 alleging the facts with certainty and praying that judgment be rendered ordering the
39 respondent, immediately or at some other time to be specified by the court, to
40 disclose the information and to pay the damages sustained by the requesting party
41 by reason of the denial. The procedure for such petition shall be summary in nature.
42 Unless restrained or enjoined, the decision of the court shall be immediately
43 executory, without prejudice to review in accordance with the Rules of Court;

44 (4) In resolving a Complaint or Petition brought under the preceding paragraphs (2)
45 and (3), the Ombudsman or the court is empowered to receive the information
46 subject of a claim of exception under Section 7 herein and examine them in camera
47 to determine sufficiency of the factual and legal basis of such claim, when such

1 sufficiency cannot be reasonably determined through evidence and circumstances
2 apart from the information.

3 (b) In the Judicial Branch - The Judiciary shall be governed by such remedies
4 promulgated by the Supreme Court.

5 (c) The remedies under this section are without prejudice to any other administrative,
6 civil or criminal action covering the same Act.

7 (d) The remedies available under this Act shall be exempt from the rules on non-
8 exhaustion of administrative remedies and the application of the provisions of
9 Republic Act No, 9285, otherwise known as the Alternative Dispute Resolution Act of
10 2004.

11 (e) In case the requesting party has limited or no financial capacity, the Public
12 Attorney's Office shall be mandated to provide legal assistance to the requester
13 availing of the remedies provided under this Act.

14 **SEC. 16. Keeping of Records.** - (a) Government agencies shall create and/or
15 maintain in appropriate formats, accurate and reasonably complete documentation or
16 records of their organization, policies, transactions, decisions, resolutions,
17 enactments. actions, procedures, operations, activities, communications and
18 documents received or filed with them and the data generated or collected. These
19 shall include working files such as drafts or notes, whenever these have been
20 circulated within the agency for official purpose such as for discussion, comment or
21 approval or when these contain unique information that can substantially contribute
22 to a proper understanding of the agency organization, policies, transactions,
23 decisions, resolutions, enactments, actions. procedures, operations, and activities;

24 (b) Government agencies shall identify specific and classes of official records in their
25 custody or control that have continuing historical, administrative, informational, legal.
26 evidentiary, or research value for preservation by such agencies or their legitimate
27 successors, or for transfer to the National Archives of the Philippines. In addition, the
28 National Archives of the Philippines shall likewise identify specific and classes of
29 official , records that it shall require agencies to preserve and transfer to it.

30 (c) In addition to the specific and classes of official records identified for preservation
31 under letter (b) of this section, the following shall not be destroyed:

32 (1) Records pertaining to loans obtained or guaranteed by the government;

33 (2) Records of government contracts;

34 (3) The declaration under oath of the assets, liabilities and net worth of public
35 officers and employees, as required by law; and

36 (4) Records of official investigations pertaining to allegations of graft and corruption
37 of public officers.

38 (d) Government agencies shall prepare, following standards and period promulgated
39 pursuant to Republic Act No. 9470 or the National Archives of the Philippines Act of
40 2007, a records management program that includes the following:

1 (1) A records maintenance system for the creation, selection, classification, indexing
2 and filing of official records that facilitate the easy identification, retrieval and
3 communication of information to the public;

4 (2) A records maintenance, archival and disposition schedule providing a listing of
5 records under current use, for retention by the agency, for transfer to the National
6 Archives, or for destruction: *Provided*, That destruction of the official records may be
7 implemented only upon approval of the National Archives of the Philippines; and

8 (3) A specifications of the roles and responsibilities of agency personnel in the
9 implementation of such system and schedule.

10 (e) In addition to its function as repository of all rules and regulations issued by
11 agencies as provided under Book VII, Chapter II of the Administrative Code of 1987,
12 the University of the Philippines Law Center shall, in coordination with the Office of
13 the President which has exclusive editorial and printing jurisdiction over the *Official*
14 *Gazette*, and with other relevant agencies, maintain a database, and publish the
15 same in print In the *Official Gazette* or in digital or online form, the following:

16 (1) All laws of the Philippines and their amendments, from the period of the
17 Philippine Commission to the present;

18
19 (2) All presidential issuances from November 15, 1935 to the present, including
20 but not limited, to executive orders, presidential proclamations, administrative orders,
21 memorandum circulars, general orders, and other similar issuances;

22 (3) A database of all appointments and designations made by the President of the
23 Philippines; and

24 (4) Opinions of the Secretary of Justice.

25 **SEC. 17. *Publication in the Official Gazette.*** For purposes of mandatory
26 disclosure as provided in section 8 of this Act, online publication in the Official
27 Gazette website shall be considered official publication provided there shall be a
28 timestamp in the said document.

29 For purposes of compliance with Article 2 of the Civil Code of the Philippines,
30 publication of the following in the online version of the Official Gazette, with the
31 corresponding timestamps on the document, shall be considered as official
32 publication.

33 (a) All important legislative acts and resolutions of a public nature of the Congress of
34 the Philippines;

35 (b) All executive and administrative orders and proclamations of general application;

36 (c) Decisions or abstracts of decisions of the Supreme Court and the Court of Appeals
37 or other courts of similar rank, as may be deemed by said courts of sufficient
38 importance to be so published;

39 (e) Such documents or classes of documents as the President shall determine from
40 time to time to have general application or which he may authorize to be published

1 *However*, other documents or classes of documents as may be required to be
2 published by law, such as petitions and/or legal notices in connection with land titles,
3 naturalization or special proceedings shall continue to be published in the print
4 version of the *Official Gazette* or in any newspaper of general circulation for purposes
5 of compliance with the publication requirement.

6 **SEC. 18. Administrative Liability.** - The acts enumerated in this Section shall be
7 tantamount to grave administrative offenses and shall constitute grounds for
8 administrative and disciplinary sanction against any public official or employee who
9 willfully and knowingly commits the following:

10 (a) Refusal to promptly forward the request under Section 11 of this Act to the public
11 officer within the same office or agency responsible for officially acting on the request
12 when such is the direct cause of the failure to disclose the information within the
13 periods required by this Act;

14 (b) Failure to act on the request within the periods required by this Act;

15 (c) Refusal to comply with the decision of his immediate supervisor, the Ombudsman,
16 or
17 of any court ordering the release of information;

18 (d) Approval of policies, rules and regulations clearly contrary to the provisions of this
19 Act, and which policies, rules and regulations are the direct cause of the denial of a
20 request for information.

21 **SEC. 19. Criminal Liability.** - (a) Any public official or employee who falsely denies
22 or conceals the existence of information which is a proper subject for disclosure
23 under this Act shall be liable for the crime of removal, concealment or destruction of
24 documents as defined under Article 226 of the Revised Penal Code.

25 (b) Any public official or employee who destroys, or causes to be destroyed.
26 information and/or documents being requested under this Act, for the purpose of
27 frustrating the requesting party's access thereto, shall be liable for the crime of
28 removal, concealment or destruction of documents as defined under Article 226 of
29 the Revised Penal Code.

30 (c) Any individual who knowingly directed, induced or caused the commission of the
31 foregoing acts shall be liable as principal by inducement in the prosecution of public
32 officials or employees under this section.

33 (d) The penalty of *arresto mayor* shall be imposed upon any public officer or
34 employee responsible for officially acting on the request, who shall claim an exception
35 under Section 7 of this Act, or under the Constitution, when such claim is manifestly
36 devoid of factual basis.

37 **SEC. 20.** No abuse in the exercise of rights and in the performance of duties under
38 this Act. - Public officials and employees, in the performance of their duties under this
39 Act, as well as citizens in the exercise of their rights under this Act, shall act with
40 justice, give everyone his or her due, and observe honesty and good faith.

41 Public officials and employees as well as citizens shall endeavor to handle
42 information kept or obtained under this Act with due care, to the end that inaccuracies
43 and distortions are avoided.

1 Any public official or employee, or citizen who, in the performance of duties or
2 exercise of rights under this Act, willfully or negligently causes loss, damage or injury
3 to another, in a manner that is contrary to law, morals, good customs or public
4 policy, shall compensate the latter for the damage incurred. This is without prejudice
5 to other remedies available to the aggrieved party under any other law for the same
6 acts

7 **SEC. 21. *Mere Denial in Good Faith Not a Ground for Liability.*** - A mere denial
8 in good faith of a request made pursuant to the provisions of this Act shall not
9 constitute grounds for administrative, civil or criminal liability.

10 **SEC. 22. *Act Not a Bar to Claim of Right to Information Under the***
11 ***Constitution.*** - No provision of this Act shall be interpreted as a bar to any claim of
12 denial of the right to information under Article III, Section 7 of the 1987 Constitution.

13 **SEC. 23. *Appropriations.*** - The amount necessary to carry out the provisions of
14 this Act shall be charged against the agencies' current budget and shall thereafter be
15 included in the annual General Appropriations Act.

16 **SEC. 24. *Separability Clause.*** - If any section or part of this Act is held
17 unconstitutional or invalid, the other sections or provisions not otherwise affected
18 shall remain in full force and effect.

19 **SEC. 25. *Repealing Clause.*** - All laws, decrees, executive orders, rules and
20 regulations, issuances or any part thereof inconsistent with the provisions of this Act,
21 including sections 18, 24 and 25 of Executive Order No. 292 in relation to Article 2 of
22 Republic Act No. 386, Memorandum Circular No. 78 dated 14 August 1964
23 (Promulgating Rules Governing Security of Classified Matter in Government Offices),
24 as amended, and Section 3, Rule IV of the Rules Implementing Republic Act No. 6713
25 (Code of Conduct and Ethical Standards for Public Officials and Employees), are
26 deemed repealed.

27 *Provided,* That Memorandum Circular No. 78 shall be deemed repealed after one (1)
28 year from the effectivity of this Act or upon issuance of the Executive Order in
29 Section 7(a), whichever comes first.

30 **SEC. 26. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication
31 in at least two (2) national newspapers of general circulation.

32 Approved,

