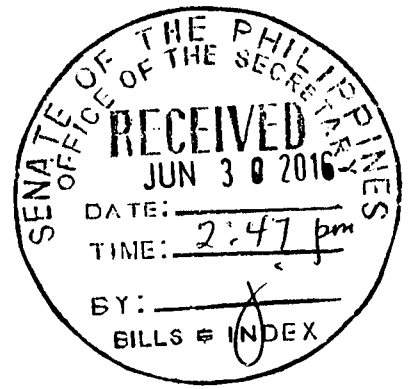


SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*First Regular Session* )

SENATE  
S.B. No. 54



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Introduced by Senator Francis N. Pangilinan

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**AN ACT IMPLEMENTING THE RIGHT OF THE PEOPLE TO INFORMATION AND  
THE CONSTITUTIONAL POLICIES OF FULL PUBLIC DISCLOSURE AND HONESTY  
IN THE PUBLIC SERVICE AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

It is high time for the Philippines to have a law on freedom of information, a law that will provide for the government to publish or release documents and information of public concern should any person ask for it.

There have been verbal disputes about the denial by the government to release public documents and information pertaining to official transactions, decisions, contracts, appointments and policies. Looking deeper at the rationale of a 'right to know' bill, the disclosure of documents and information to the public raises the credibility of the government and its officials and ensures the government's accountability to the people.

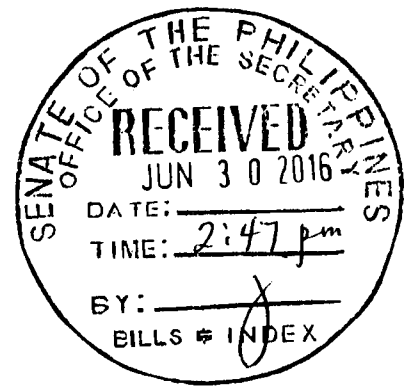
The passage of the Freedom of Information bill will ensure that public officials will observe openness and transparency in the discharge of their functions. It is expected that the bill will help curb corruption in government and promote transparency at all levels in the bureaucracy.

Hence, the passage of this bill is being sought.

  
**FRANCIS N. PANGILINAN**  
Senator

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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 “*Freedom of Information Act*  
2 *of 2016.*”

3           **SEC. 2. Declaration of Policy.**– The State recognizes the right of the people to  
4 information on matters of public concern, adopts and implements a policy of full public  
5 disclosure of all its transactions involving public interest, subject to procedures and limitations  
6 provided by this Act. This right is indispensable to the exercise of the right of the people and  
7 their organizations to effective and reasonable participation at all levels of social, political and  
8 economic decision-making.

9           **SEC. 3. Coverage.** –This Act shall cover all government agencies as defined under  
10 Section 4 of this Act.

11           **SEC. 4. Definitions of Terms.** – As used in this Act:

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

1 b) "*Government agency*" shall include the executive, legislative and judicial branches as  
2 well as the constitutional bodies of the Republic of the Philippines including, but not  
3 limited to, the national government and all its agencies, departments, bureaus, offices  
4 and instrumentalities, constitutional commissions and constitutionally mandated bodies,  
5 local government units and all their agencies, regulatory agencies, chartered  
6 institutions, government-owned or controlled corporations, including wholly-owned or  
7 controlled subsidiaries, government financial institutions, state universities and colleges,  
8 the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP), all  
9 offices in the Congress or the Philippines including the offices of the Senators and  
10 Representatives, the Supreme Court, and all lower courts established by law.

11 c) "*Official records*" shall refer to information produced or received by a public officer or  
12 employee, or by a government agency in an official capacity or pursuant to a public  
13 function or duty, and is not meant to be a stage or status of the information.

14 d) "*Public records*" shall include information required by law, executive orders, rules, or  
15 regulations to be entered, kept and made publicly available by a government agency.

16 **SEC. 5. *Presumption.*** - There shall be a legal presumption in favor of access to  
17 information. Accordingly, government agencies shall have the burden of proof of showing by  
18 clear and convincing evidence that the information requested is exempted from disclosure  
19 under this Act.

20 **SEC. 6. *Access to Information.*** - Government agencies shall make available to the  
21 public for scrutiny, copying and reproduction in the manner provided by this Act, all information  
22 pertaining to official acts, transactions or decisions, as well as government research data used  
23 as basis for policy development, regardless of their physical form or format in which they are  
24 contained and by whom they were made.

25 **SEC. 7. *Exceptions.*** - Subject to the qualifications set forth in Section 8 of this Act,  
26 access to information may be denied when:

27 a) The revelation of the information requested will create a clear and present danger of  
28 war, invasion or any external threat to the State as determined by the Office of the  
29 President and/or the Secretary of the Department of National Defense;

30 b) The information requested pertains to the foreign affairs of the Republic of the  
31 Philippines, when its revelation would unduly weaken the negotiating position of the  
32 government in an ongoing bilateral or multilateral negotiation or would seriously

1       jeopardize the diplomatic relations of the Philippines with one or more states with which  
2       it intends to keep friendly relations;

3       c) The information requested pertains to internal and external defense and law  
4       enforcement, when the revelation thereof would render a legitimate military operation  
5       ineffective, unduly compromise the prevention, detection or suppression of a criminal  
6       activity, or endanger the life or physical safety of confidential or protected sources or  
7       witnesses, law enforcement and military personnel or their immediate families.  
8       Information relating to the details of the administration, budget and expenditure, and  
9       management of the defense and law enforcement agencies shall always be accessible  
10      to the public;

11      d) The information requested pertains to the personal information of a natural person other  
12      than the requesting party, and its disclosure would constitute a clearly unwarranted  
13      invasion of his or her personal privacy, unless it forms part of a public record, or the  
14      person is or was an official of a government agency and the information requested  
15      relates to his or her public function, or the person has consented to the disclosure of the  
16      requested information;

17      e) The information requested pertains to trade, industrial, financial or commercial secrets  
18      of a natural or juridical person other than the requesting party, obtained in confidence  
19      by, and/or filed with a government agency, whenever the revelation thereof would  
20      seriously prejudice the interests of such natural or juridical person in trade, industrial,  
21      financial or commercial competition, unless such natural or juridical person has  
22      consented to the disclosure of the requested information;

23      f) The information requested is privileged from production in legal proceedings by law or  
24      by the Rules or Court, unless the person entitled to the privilege has waived it;

25      g) The information requested is exempted by law, in addition to those provided in this  
26      Section;

27      h) The information requested is obtained by any committee of either House of Congress in  
28      executive session, whenever such information falls under any of the foregoing  
29      exceptions; and

30      i) The information requested consists of drafts of decisions by any executive,  
31      administrative, judicial or quasi-judicial body in the exercise of their adjudicatory  
32      functions whenever the revelation thereof would reasonably tend to impair the  
33      impartiality of verdicts, or otherwise obstruct the administration of justice.

1           **SEC. 8. Qualifications.** - Even if the information requested falls under the exceptions  
2 set forth in the preceding section, access to information shall not be denied if:

- 3           a) The information requested may be reasonably severed from the body of the information  
4           which would be subject to the exceptions;
- 5           b) The public interest in the disclosure outweighs the harm to the interest sought to be  
6           protected by the exceptions; or
- 7           c) The requesting party is either House of Congress, or any of its Committees, unless the  
8           disclosure will constitute a violation of the Constitution.

9           **SEC. 9. Procedure of Access.-** (a) Any person who wishes to obtain information shall  
10 submit a request to the government agency concerned personally, by mail, or through  
11 electronic means. The request shall state the name and preferred contact information of the  
12 requesting party, and reasonably describe the information required, the reason for the request  
13 of the information and the preferred means by which the government agency shall  
14 communicate such requested information to the requesting party: *Provided*, that the stated  
15 reason, or the failure to state the reason for the request of the information, shall not be used as  
16 a ground to deny the request or to refuse the acceptance of the request, unless such reason is  
17 contrary to law. If the request is submitted personally, the requesting party shall show his  
18 current identification card issued by any government agency, or government or private  
19 employer or school, or a community tax certificate. If the request is submitted by mail or  
20 through electronic means, the requesting party may submit a photostatic or electronically  
21 scanned copy of the identification, or other convenient means as determined by the agency.

22           (b) The request shall be stamped by the government agency, indicating the date and  
23 time of receipt and the name, rank, title and position of the receiving public officer or employee  
24 with the corresponding signature, and a copy thereof furnished to the requesting party. In case  
25 the request is submitted by electronic means, the government agency shall provide an  
26 equivalent means by which the requirements of this paragraph shall be met.

27           (c) The request may indicate the following preferred means of communication: (1) A true  
28 copy of the information requested in permanent or other form; (2) An opportunity to inspect the  
29 requested information, using equipment normally available to the government agency when  
30 necessary; (3) An opportunity to copy the requested information using personal equipment; (4)  
31 A written transcript of the information requested contained in an audio or visual form; (5) A  
32 transcript of the content of the information requested, in print, sound or visual form, where such

1 transcript is capable of being produced using equipment normally available to the government  
2 agency; (6) A transcript of the requested information from shorthand or codified form; or (7)  
3 Other reasonable means or format.

4 (d) A government agency may communicate the information requested in a form other  
5 than the preferred means whenever such preferred means would unreasonably interfere with  
6 the effective operation of the agency, or be detrimental to the preservation of the record.

7 (e) The government agency shall comply with such request within seven (7) calendar  
8 days from the receipt thereof.

9 (f) The time limits prescribed in this Section for the production of the requested  
10 information may be extended whenever there is a need for any of the following: (1) To search  
11 for and collect the requested information from field facilities or other establishments that are  
12 separate from the office processing the request; (2) To search for, collect and appropriately  
13 examine a voluminous amount of separate and distinct information which are demanded in a  
14 single request; (3) Consultation, which shall be conducted in all practicable speed, with  
15 another government agency or among two (2) or more components of the government agency  
16 having substantial interest in the determination of the request; and (4) To consider fortuitous  
17 events or other events due to *force majeure* or other analogous cases.

18 (g) The government agency shall, in writing or through electronic means, notify the  
19 person making the request of the extension, setting forth the reasons for such extension and  
20 the date when the information requested shall be made available: *Provided*, that no such  
21 notice shall specify a date that would result in an extension of more than fifteen (15) calendar  
22 days from the original deadline.

23 **SEC. 10. Access Fees.**- Government agencies may charge a reasonable fee to  
24 reimburse the actual cost of reproduction, copying or transcription and the communication of  
25 the information requested.

26 **SEC. 11. Notice of Denial.**- If the government agency decides to deny the request, in  
27 whole or in part, it shall, within seven (7) calendar days from the receipt of the request, notify  
28 the person making the request of such denial in writing or through electronic means. The  
29 notice shall clearly indicate the name, rank, title or position of the person making the denial,  
30 and the grounds for the denial. In case the denial is by reason of a claimed exception, the  
31 denial shall also clearly state the legitimate aim or interest sought to be protected in the  
32 confidentiality, and the facts and circumstances invoked showing the substantial harm to, or

1 frustration of, the legitimate aim or interest that will result in the disclosure of the information  
2 requested. Failure to notify the person making the request of the denial, or of the extension,  
3 shall be deemed a denial of the request to access information.

4 **SEC. 12. Implementation Requirements.**- (a) For the effective implementation of this  
5 Act, every government agency shall prepare a Freedom of Information Manual, which shall  
6 include the following information:

- 7 1) The location and contact information of the head, regional, provincial and field offices,  
8 and other established places where the public can obtain information or submit  
9 requests;
- 10 2) The types of information it generates, produces, holds and/or publishes;
- 11 3) A description of its record-keeping system;
- 12 4) The person or office responsible for receiving requests for information;
- 13 5) The procedure for the filing of requests personally, by mail or through the identified  
14 electronic means;
- 15 6) The standard forms for the submission of request and for the proper acknowledgement  
16 of the request;
- 17 7) The process for the disposition of the request, including the routing of the request to the  
18 person or office with the duty to act on the request, the decision-making, and the grant  
19 or denial of access and its implementation;
- 20 8) The procedure for the administrative appeal of any denial of access to information;
- 21 9) The schedule of fees;
- 22 10) The process and procedure for the mandatory disclosure of information under Section  
23 14 of this Act;
- 24 11) Should the agency lack the capacity to comply with Section 14 (a) of this Act, a brief  
25 description of its plan to facilitate compliance within three (3) years from the approval of  
26 this Act; and
- 27 12) Such other information, taking into consideration the unique characteristics of an  
28 agency, that will help facilitate the effective implementation of this Act.

29 (b) The foregoing information shall also be posted in its website and bulletin boards, and  
30 shall be regularly updated;

31 (c) In no case shall the absence of the aforementioned guidelines be a reason for the  
32 denial of any request for information made in accordance with this Act.

1           **SEC. 13. Remedies in Cases of Denial.** - (a) In all government agencies other than the  
2 judicial branch-

- 3           1) Every denial of any request for access to information may be appealed to the person or  
4 office next higher in authority, following the procedure mentioned in Section 12 (8) of  
5 this Act: *Provided*, that the appeal must be filed within fifteen (15) calendar days from  
6 the notice of denial and must be, decided within fifteen (15) calendar days from filing.  
7 Failure of the government agency to decide within the aforesated period shall constitute  
8 a denial of the appeal; and
- 9           2) Instead of appealing or after the denial of the appeal, the person denied access to  
10 information may file a verified complaint with the Office of the Ombudsman, praying that  
11 the government agency concerned be directed to immediately afford access to the  
12 information being requested. Such complaint shall be resolved by the Office of the  
13 Ombudsman within sixty (60) calendar days from filing, or earlier when time is of the  
14 essence, taking into account such factors as the nature of the information requested,  
15 context of the request, public interest and danger that the information requested will  
16 become moot. The Office of the Ombudsman shall promulgate its special rules of  
17 procedure for the immediate disposition of complaints filed pursuant to this Section.  
18 Unless restrained or enjoined, the decisions of the Office of the Ombudsman shall be  
19 immediately executory, without prejudice to review in accordance with the Rules of  
20 Court.
- 21           3) Instead of filing a complaint with the Office of the Ombudsman, whenever a request for  
22 information is denied originally or on administrative appeal, the requesting party may file  
23 a verified petition for mandamus in the proper court, alleging the facts with certainty and  
24 praying that judgment be rendered ordering the respondent, immediately or at some  
25 other time to be specified by the court, to disclose the information requested and to pay  
26 the damages sustained by the requesting party by reason of the denial. The procedure  
27 for such petition shall be summary in nature.

28           (b) In the Judicial Branch - The Supreme Court shall promulgate the remedies that would  
29 govern offices under its jurisdiction.

30           (c) The remedies under this section are without prejudice to any other administrative, civil  
31 or criminal action that may arise from the same act.

32           (d) The remedies available under this Act shall be exempt from the rules on no exhaustion  
33 of administrative remedies and the application of the provisions of Republic Act No. 9285,  
34 otherwise known as the Alternative Dispute Resolution Act of 2004.



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

4 **SEC. 14. Mandatory Disclosure of Transactions Involving Public Interest.-** (a)  
5 Subject to Sections 7 and 8 of this Act, all government agencies shall upload on their websites,  
6 which shall be regularly updated every fifteen (15) days, all the steps, negotiations and key  
7 government positions pertaining to definite propositions of the government, as well as the  
8 contents of the contract, agreement or treaty in the following transactions involving public  
9 interest:

- 10 1) Compromise agreements entered into by a government agency with any person or  
11 entity involving any waiver of its rights or claims;
- 12 2) Private sector participation agreements or contracts in infrastructure and development  
13 projects under Republic Act No. 6957, as amended by Republic Act No.7718,  
14 authorizing the financing, construction, operation and maintenance of infrastructure  
15 projects;
- 16 3) Procurement contracts entered into by a government agency;
- 17 4) Construction or concession agreements or contracts entered into by a government  
18 agency with any domestic or foreign person or entity;
- 19 5) Loans, grants, development assistance, technical assistance and programs entered into  
20 by a government agency with official bilateral or multilateral agencies, as well as with  
21 private aid agencies or institutions;
- 22 6) Loans from domestic and foreign financial institutions;
- 23 7) Guarantees given by any government agency to government-owned or controlled  
24 corporations and to private corporations, persons or entities;
- 25 8) Public funding extended to any private entity;
- 26 9) Bilateral or multilateral agreements and treaties in defense, trade, economic  
27 partnership, investments, cooperation and similar binding commitments; or
- 28 10) Licenses, permits or agreements given by any government agency to any person or  
29 entity for the extraction and/or utilization of natural resources.

30 A summary list of the foregoing information uploaded in the website shall be posted in the  
31 bulletin boards of the concerned government agency.

32 (b) The information uploaded in the website under letter (a) of this Section may be  
33 withdrawn after a period of three (3) years from the time of uploading: *Provided*; that an  
34 abstract of the information withdrawn shall remain uploaded in the website, containing a brief

1 description of the transaction and an enumeration of the information withdrawn, and indicating  
2 the dates of posting and withdrawal.

3 (c) Should an agency lack the capacity to comply with letter (a) of this Section, the agency  
4 shall initiate a capacity-building program, or coordinate with another appropriate agency, to  
5 facilitate substantive compliance not later than three (3) years upon approval of this Act.

6 **SEC. 15. Promotion of Openness in Government.-** (a) Duty to Publish Information –  
7 Government agencies shall regularly publish, print and disseminate at no cost to *the* public and  
8 in an accessible form, in conjunction with R.A. No. 9485, or the “*Anti-Red Tape Act of 2007*,”  
9 and through their website, timely, true, accurate and updated key information including, but not  
10 limited to:

- 11 1) A description of its mandate, structure, powers, functions, duties and decision-making  
12 processes;
- 13 2) A description of the frontline services it delivers and the procedure and length of time by  
14 which they may be availed of;
- 15 3) The names of its key officials, their powers, functions and responsibilities, and their  
16 profiles and curriculum vitae;
- 17 4) Work programs, development plans, investment plans, projects, performance targets  
18 and accomplishments, and budgets, revenue allotments and expenditures;
- 19 5) Important rules and regulations, orders or decisions: *Provided*, that they be published  
20 within fifteen (15) calendar days from promulgation;
- 21 6) Current and important database and statistics that it generates;
- 22 7) Bidding processes and requirements; and
- 23 8) Mechanisms or procedures by which the public may participate in or otherwise influence  
24 the formulation of policy or the exercise of its powers.

25 (b) Keeping of Records - Government agencies shall maintain and preserve their records in  
26 a manner that facilitates easy identification, retrieval and communication to the public. They  
27 shall establish Management Information Systems (MIS) to strengthen their capability to store,  
28 manage and retrieve records, and to facilitate access to public records. The following shall not  
29 be destroyed:

- 30 1) Records pertaining to loans obtained or guaranteed by the government;
- 31 2) Records of government contracts;
- 32 3) The declaration under oath of the assets, liabilities and net worth of public officers  
33 and employees, as required by law;

- 1 4) Records of official investigations on graft and corrupt practices of public officers; and  
2 5) Other records where there is a significant public interest in their preservation or  
3 where there is likely to be such interest in the future.

4 (c) Accessibility of Language and Form - Every government agency shall endeavor to  
5 translate key information into major Filipino languages and present them in popular form and  
6 means.

7 (d) Improving Capability - Every government agency shall ensure the provision of adequate  
8 training for its officials to improve awareness of the right to information and the provisions of  
9 this Act, and to keep updated of best practices in relation to information disclosure, records  
10 maintenance and archiving.

11 **SEC. 16. Criminal Liability and Administrative Liability.** - The penalty of  
12 imprisonment of not less than one (1) month but not more than six (6) months shall be  
13 imposed upon:

14 a) Any public officer or employee receiving the request under Section 9 of this Act who  
15 shall fail to promptly forward the request to the public officer within the same offices or  
16 agency responsible for officially acting on the request when such is the direct cause of  
17 the failure to disclose the information requested within the periods required by this Act;

18 b) Any public officer or employee responsible for officially acting on the request, who shall:

- 19 1) Fail to act on the request within the periods required by this Act;  
20 2) Knowingly deny the existence of existing requested information;  
21 3) Destroy information being requested for the purpose of frustrating the requesting  
22 party's access thereto;  
23 4) Claim an exception under Section 8 of this Act, or under the Constitution, when  
24 the claim is manifestly devoid of actual basis; or  
25 5) Refuse to comply with the decision of his immediate supervisor, the Ombudsman  
26 or the court ordering the release of the information requested that is not  
27 restrained or enjoined by a court;

28 c) The head of office of the government agency directly and principally responsible for the  
29 negotiation and perfection of any of the transactions enumerated in Section 13 (a) of  
30 this Act, who shall knowingly refuse to direct the mandatory posting or uploading of  
31 such transaction despite the agency's capacity to implement such directive. The same  
32 penalty shall be imposed upon the public officer or employee who, despite a directive

1 from the head of office, shall fail, to post or upload any of the transactions enumerated  
2 in Section 14 of this Act;

3 d) Any public officer or employee who shall destroy, or cause to destroy, records of  
4 information covered by Section 15 (b) of this Act;

5 e) Any public officer who formulates policies, rules and regulations manifestly contrary to  
6 the provisions of this Act, and which policies, rules and regulations are the direct cause  
7 of the denial of a request for information; or

8 f) Any public or private individual who knowingly induced or caused the commission of the  
9 foregoing acts under this section. The foregoing shall be without prejudice to any  
10 administrative liability of the offender under existing laws and regulations.

11 **SEC. 17. Act Not a Bar to Claim of Right to Information Under the Constitution.-**

12 No provision of this Act shall be interpreted as a bar to any claim of denial of the right to  
13 information under Article III, Section 7 of the 1987 Constitution.

14 **SEC. 18. Separability Clause.** - If, for any reason, any section or provision of this Act is

15 held unconstitutional or invalid, no other section or provision shall be affected.

16 **SEC. 19. Repealing Clause.-** All laws, decrees, executive orders, rules and

17 regulations, issuances or any part thereof inconsistent with the provisions of this Act, including  
18 Memorandum Circular No. 78 dated 14 August 1964 (Promulgating Rules Governing Security  
19 of Classified Matter in Government Offices), as amended, and Section 3, Rule IV of the Rules  
20 Implementing Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public  
21 Officials and Employees), are deemed repealed or amended accordingly.

22 **SEC. 20. Effectivity.** - This Act shall take effect fifteen (15) days after its publication in

23 the Official Gazette or in two (2) national newspapers of general circulation.

Approved,