

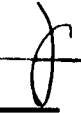
SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

'16 JUL 26 AIO :01

SENATE

SENATE BILL NO. 903 RECOMMENDED BY: 

INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

AN ACT
MANDATING THE GOVERNMENT TO PROVIDE ACCESS TO
INFORMATION ON FOOD AND OTHER BASIC COMMODITIES TO
GUARANTEE THE RIGHT OF THE PEOPLE TO AFFORDABLE FOOD
AND ADEQUATE FOOD SUPPLY, PRESCRIBING GUIDELINES
THEREFOR, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Years ago, the country experienced a shortage of rice but the Executive has not admitted the crisis and failed to make a clear statement as to the true state of demand and supply for rice and other agricultural commodities.

To reinforce and guarantee the right of the people to affordable and adequate food supply, the government must be transparent in all its transactions involving food and other basic commodities. This information is pertinent in order for the families to rightly budget their expenses, for the law enforcers to run after hoarders and price colluders and private enterprises in planning for the medium-term plan in solving such crisis.

This bill seeks to adopt and implement a policy of full public disclosure of all government transactions involving food and basic commodities, consistent with the Constitutional right of the people to information, by requiring all government bodies, specifically, but not limited to the Department of Agriculture and Department of Trade and Industry, to grant written requests for information on food and food supply, and prescribing the penalty in the event of violations thereof. The bill also requires the Department of Agriculture to publish all relevant information on the importation of basic food commodities, such as rice and corn, as well as to maintain records and a database containing said information.

In view of the foregoing, the immediate enactment of this measure is earnestly sought.



JOSEPH VICTOR G. EJERCITO



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

16 JUL 26 AM 10:01

SENATE

SENATE BILL NO. 903

BY:

INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

AN ACT

MANDATING THE GOVERNMENT TO PROVIDE ACCESS TO INFORMATION ON FOOD AND OTHER BASIC COMMODITIES TO GUARANTEE THE RIGHT OF THE PEOPLE TO AFFORDABLE FOOD AND ADEQUATE FOOD SUPPLY, PRESCRIBING GUIDELINES THEREFOR, AND FOR OTHER PURPOSES

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

1 **SECTION 1. Short Title.** This Act shall be known as the "*Affordable*
2 *Food Transparency Act.*"
3

4 **SECTION 2. Declaration of Policy.** The State recognizes as a matter of
5 policy the fundamental right of the people to an affordable food and food
6 supply. The State therefore recognizes its obligation to the people to ensure
7 adequate supply of food and other basic commodities, as well as to ensure
8 transparency in all its transactions relative thereto, and to prevent any and all
9 forms of collusion and cartel that would restrict the people's access to
10 affordable food and adequate food supply. In order to reinforce the right of
11 the people to affordable food and food supply, the State shall adopt and
12 implement a policy of full public disclosure of all government transactions
13 involving food and basic commodities, consistent with the Constitutional
14 right of the people to information on all matters of public concern.
15

16 To guarantee the people's fundamental human right to affordable food
17 and food Supply, the State shall afford to citizens, non-government
18 organizations (NGO), civil society groups, and other private entities access to
19 official records, and to documents and papers pertaining to official acts,
20 transactions or decisions, as well as to government research data used as basis
21 for policy development, except for such information which may jeopardize
22 the right against self-incrimination of individuals and matters affecting
23 national security, especially those information dealing with foreign
24 diplomatic relations.

1
2 **SECTION 3. *Definition of Terms.***
3

4 (a) ***"Basic commodities"*** for purposes of this Act includes: rice; corn;
5 bread; fresh, dried and canned fish and other marine products, fresh pork,
6 beef and poultry meal; fresh eggs; fresh and processed milk; fresh vegetables;
7 root crops; coffee; sugar; instant noodles; salt;
8

9 (b) ***"Government body"*** shall mean any Executive, specifically, but not
10 limited to, the Department of Agriculture (DA) and Department of Trade and
11 Industry (DTI), Legislative, Judicial or Constitutional body of the Government
12 of the Republic of the Philippines, including local government units, the
13 Armed Forces of the Philippines and the Philippine National Police,
14 government financial institutions and government-owned and controlled
15 corporations, whether created by its own charter or by registration with the
16 Securities and Exchange Commission (SEC), and all such other entities where
17 the government has substantial interest in.
18

19 (c) ***"Information"*** shall mean all documents, papers, letters, minutes
20 and transcripts of official meetings, maps, books, photographs, films, sound
21 and video recordings, magnetic or other tapes, electronic data processing
22 records, computer stored data, electronic mail messages, or any other like or
23 similar data or material, recorded, stored or archived in whatever form or
24 format, which are made, received or kept in or under the control and custody
25 of any government body pursuant to law, executive order, rules and
26 regulation, ordinance or in connection with the performance or transaction of
27 official business by any government body.
28

29 (d) ***"Requesting person"*** shall mean a natural person, whether on his
30 own or as a representative of another natural person or a juridical person,
31 who makes a request to obtain, have a copy of or have access to information
32 from any government body as defined in this Section.
33

34 (e) ***"Trade secret"*** shall mean any information, including a formula,
35 pattern, compilation, program, device, product, method, technique or process,
36 that is used, or may be used, in business or for any commercial advantage;
37 derives independent economic value, actual or potential, from not being
38 generally known to the public or to persons who can obtain economic value
39 from its disclosure or use; is the subject of reasonable efforts to prevent it from
40 becoming generally known, and the disclosure of which would result in harm
41 or improper benefit.
42

43 **SECTION 4. *Publication of Importation Permits.*** In the spirit of
44 transparency and accountability, the Department of Agriculture shall cause
45 the publication of the following information on all basic commodities,
46 especially rice, corn, and sugar importation permits that it has granted:
47

48 (a) Name and address of importer, either as a natural or juridical entity;

- 1 (b) Name and address of supplier from whom importation is sourced;
- 2 (c) Country of origin of the import per shipment;
- 3 (d) Date of contract of import;
- 4 (e) Date of arrival of import per shipment;
- 5 (f) Schedule, cargo or vessel, and maximum tonnage per shipment;
- 6 (g) Contracted and actual volume of import per shipment;
- 7 (h) Specification of import per shipment:
- 8 (i) Contracted price of import per shipment;
- 9 (j) Value or cost of import per volume and for each source;
- 10 (k) Mode of purchase of import per shipment;
- 11 (l) Drop-off points or ports per shipment shipment; and
- 12 (m) Such other information that may be necessary to ensure a complete
- 13 and proper inventory of imported rice and corn.
- 14

15 The Department of Agriculture shall also prepare, keep and maintain
16 records and a database containing the above-enumerated information, which
17 shall be made readily available to the public.
18

19 **SECTION 5. Coverage and Limitations.** All information, as herein
20 defined, which are in the custody or under the control of a government body
21 shall be made accessible and available for public scrutiny, copying and
22 reproduction, except when:
23

24 (a) The information pertains to personal information on a third party
25 natural person, but only when its revelation would constitute a violation of an
26 individual's right against self-incrimination, including, but not limited to,
27 records or information subject to attorney-client or doctor-patient
28 relationship;
29

30 (b) The information has been specifically authorized to be kept secret
31 or considered classified in the interest of national security by the President
32 through an Executive Order duly published in the Official Gazette and in at
33 least two (2) newspapers of general circulation, subject to the following
34 provisions:
35

36 (i) The Supreme Court may, upon complaint by any citizen,
37 inquire into the sufficiency of the factual basis for the President's
38 determination;
39

40 (ii) Such information shall be reviewed every five (5) years by
41 the head of the appropriate agency concerned for purposes of
42 declassification and making available to the public; and
43

44 (iii) Such information shall finally be deemed declassified and
45 open to the public after a period of fifteen (15) years from the
46 date of publication of the said Executive Order in the Official
47 Gazette or in a newspaper of general circulation, whichever was
48 first.

1
2 (c) The information is maintained by law enforcement agencies for
3 criminal law enforcement, or, relates to the detection and investigation of
4 crime, including those maintained on any individual *or* compiled in the
5 course of a criminal investigation by any law enforcement agency: *Provided*
6 that the disclosure of such public record or information:

7
8 (i) Could reasonably be expected to interfere with the
9 prevention, detection, suppression, or investigation of any
10 criminal activity or with law enforcement operations;

11
12 (ii) Would deprive a person of a right to a fair trial or an
13 impartial adjudication;

14
15 (iii) Could reasonably be expected to constitute an unwarranted
16 invasion of personal privacy;

17
18 (iv) Could reasonably be expected to disclose the identity of a
19 confidential source, including a foreign agency or authority, or
20 any private institution, which furnished information on a
21 confidential basis, or the information furnished by a confidential
22 source;

23
24 (v) Would disclose techniques and procedures for law
25 enforcement investigations or prosecutions, or would disclose
26 guidelines for law enforcement investigations or prosecutions;

27
28 (vi) Could reasonably be expected to endanger the life or
29 physical safety of any individual, harm the security of any
30 property or system, including a building; or

31
32 (vii) Could harm the security of any property or system,
33 including, but not limited to, a building, vehicle, computer or
34 communications system: *Provided, however,* that records or
35 information relating to the administration, management and
36 direction of a law enforcement agency shall be public.

37
38 (d) The information is maintained by the Department of Foreign
39 Affairs and other relevant government bodies on another sovereign state, and
40 the disclosure of such records or information could reasonably be expected to
41 jeopardize the diplomatic relations of the Government of the Republic of the
42 Philippines with the said sovereign state: *Provided,* that treaties, trade
43 agreements, contracts between agencies and/or government-owned and
44 controlled corporations, and implementing agreements, annexes, side letters
45 and other such documents and records pertaining to or related to the same,
46 and any other documents pertaining to dealings entered into by, the
47 Government of the Republic of the Philippines with another sovereign State

1 and binds the Government to uphold such transactions under international
2 and local law, shall not be covered by this exception;

3
4 (e) The information pertains to trade secrets and commercial or
5 financial information obtained from a person, firm, or corporation which is of
6 a privileged or confidential nature; or

7
8 (f) The information is exempted from disclosure by another law or by
9 the Rules of Court, including, but not limited to, information considered as
10 privileged communication or gathered by any government body in closed or
11 executive session.

12
13 In cases where access is requested to a portion of a record or
14 information that is exempt from disclosure pursuant to this Act, the public
15 shall have the right of access to the remainder of the record *Provided*, that the
16 exempt portion of the record can be reasonably separated, severed, deleted or
17 concealed from the record.

18
19 Nothing in this Act shall, however:

20
21 (a) Authorize the withholding of information from, or limit the
22 availability of records to, Congress or any of its committees;

23
24 (b) Affect the power of any court, tribunal, investigative body, or any
25 government body exercising quasi-judicial functions to compel a
26 witness to testify *or to compel* the production of documents;

27
28 (c) Limit the information otherwise available by law to a party to a
29 litigation including a civil, criminal or administrative proceeding;

30
31 (d) Prohibit the transfer, storage or destruction of any record pursuant
32 to law, decree, order, ordinance or rules and regulations;

33
34 (e) Prevent access to records maintained in a public office for the
35 purpose of providing the public access to information; or

36
37 (f) Restrict disclosure of information for the purpose of an investigation
38 or prosecution of a criminal case or a case of graft and corruption.

39
40
41 **SECTION 6. *Procedure for Access.*** Any person who seeks to obtain,
42 have a copy of or have access to any information shall file a request in writing,
43 as much as practicable, to the government body concerned, reasonably
44 describing the information being sought, and stating details on how he could
45 be contacted by the said government body.

46
47 The government body shall comply with the said request within two
48 (2) working days after the receipt of the request, or within a reasonable period

1 of time mutually agreed upon by the requesting person and the government
2 body's employee concerned, but not to exceed five (5) working days.

3
4 The time for compliance may, with due notice to the requesting person,
5 be extended by the head of the government body to a period not exceeding
6 fifteen (15) days if:

7
8 (a) The requesting person failed to give enough details about the
9 information or record sought to be obtained.

10
11 (b) A large number of records is sought to be obtained in a single
12 request, or when it has received voluminous requests, that compliance
13 within the prescribed period under this Act would unreasonably
14 interfere with its operations;

15
16 (c) The request requires search and collation of records from its field
17 offices;

18
19 (d) Additional time is needed to consult with another government
20 body having material or substantial interest in the determination of the
21 request; and

22
23 (e) There are fortuitous events or other events from *force majeure*, or
24 other analogous cases.

25
26
27 **SECTION 7. *Payment of Reasonable Fees.*** Copies or reproductions of
28 information, whether in print or electronic media, may be obtained by the
29 requesting person whose request has been approved upon payment of a
30 reasonable fee which shall not exceed the actual cost of reproduction plus a
31 reasonable margin not exceeding ten percent (10%): *Provided*, that proceeds
32 from the reproduction fees charged shall be used exclusively for the purchase
33 and maintenance of equipment and supplies required to produce copies or
34 reproductions of the said records.

35
36 Upon request, the government body shall provide a detailed
37 itemization of the costs charged for the reproduction. No government body
38 may, however, require the advanced payment of any reproduction fee.

39
40 **SECTION 8. *Transfer of Request.*** If the government body to which the
41 request was filed determines that the information being sought is not in its
42 custody or control, it shall, within two (2) days, notify the requesting person
43 of the same, through writing or other contact channels that the requesting
44 person has provided, and shall then either: 1) transmit the said request to the
45 government body which has the possession or custody of the information
46 being sought; or 2) provide the requesting person with a referral letter, signed
47 by its head and addressed to the head of the government body which has the
48 possession or custody of the information being sought.

1
2 The government body receiving of such transmittal or referral letter
3 shall then act on such request in the manner set forth in Section 5 hereof.
4

5 **SECTION 9. *Denial of Request.*** If the government body decides to
6 deny the request, in whole or in part, it shall within two (2) working days
7 from the receipt of the request notify the requesting person of such denial in
8 writing, signed by the head of the government body, and the specific grounds
9 for the denial and the corresponding legal basis, as allowed in Section 4
10 hereof.
11

12 **SECTION 10. *Remedies to Compel Disclosure.*** Every denial of any
13 request for access to information may be appealed before the Office of the
14 Ombudsman by filing, within fifteen (15) days from receipt of a letter of
15 denial, a prayer for the disclosure of the information being sought.
16

17 If the Office of the Ombudsman upholds such denial or fails to act on
18 such prayer within sixty (60) days, the requesting person may then file a
19 verified petition for mandamus before the Regional Trial Court with
20 jurisdiction over the government body's office receiving the request for
21 information. A decision of the court granting the request for information shall
22 be subject to the proper judicial remedies available to the affected government
23 body, following the procedure provided under the Rules of Court.
24

25 Nothing in this Section shall prejudice any other available
26 administrative, civil or criminal remedy.
27

28 **SECTION 11. *Mandatory Disclosure of Food Information.*** Each
29 government body that possesses any significant information that affects food
30 supply and prices shall readily disseminate the same to the public and
31 regularly update said information. The means of disclosure and
32 dissemination of such information shall include, but not be limited to: (a)
33 manuals, pamphlets, brochures, bulletins, posters, announcements, or any
34 other printed collaterals, for distribution or for posting by the government
35 body concerned in conspicuous places in its central and field offices; and (b)
36 electronically uploading of such information on its website.
37

38 **SECTION 12. *Mandatory Disclosure for Public Interest.*** Any
39 government body which is in possession or has knowledge of any
40 information, not otherwise declared classified or exempt pursuant to this Act,
41 about the existence of a factor or risk significant to food supply and prices, or
42 which clearly affects public's right to affordable food and adequate food
43 supply, shall without delay disclose such information to the public.
44

45 **SECTION 13. *Penal Provisions.*** Any official or employee of the
46 government body which has possession of any significant information on
47 food supply and prices found guilty by final judgment of the proper court of
48 denying access to information, or parts thereof, without a valid legal ground

1 as provided in this Act, or who shall knowingly release false and/or
2 misleading information, shall be punished with a fine of not less than Twenty
3 Thousand Pesos (P20,000.00) but not more than Forty Thousand Pesos
4 (P40,000.00), and/or imprisonment of not less than one (1) year but not more
5 than three (3) years, including all the accessory penalties provided by law,
6 upon the discretion of the court.
7

8 Any official or employee who shall fail to respond to a request due to
9 negligence, or fail to meet the time limits for response set forth in this Act,
10 without reasonable reasons for such, shall be punished with a fine of not less
11 than Ten Thousand Pesos (P10,000.00) but not more than Twenty Thousand
12 Pesos (P20,000.00), and/or imprisonment of not less than six (6) months but
13 not more than one (1) year, including all the accessory penalties provided by
14 law, upon the discretion of the court.
15

16 Any official or employee who shall deliberately and knowingly refuse,
17 or because of negligence fail, to update any information his or her office is
18 required to disclose under Section 10 of this Act shall be penalized
19 administratively with suspension from service, without pay, of at least six (6)
20 months but not more than *one* (1) year. A subsequent offense shall cause his
21 dismissal from service.
22

23 **SECTION 14. *Implementing Guidelines.*** Each government body shall,
24 within sixty (60) days from the effectivity of this Act, promulgate guidelines
25 specifying the office, and employees from whom, and the methods and
26 process whereby, the public may request access to or obtain information
27 which are kept in or held under its custody or control.
28

29 **SECTION 15. *Reports.*** On or before March 1 of each calendar year,
30 each government body shall submit a report covering the preceding year to
31 the Speaker of the House of Representatives and President of the Senate for
32 referral to the appropriate committees of Congress. The report shall include:
33

34 (a) A copy of the implementing guidelines and rules crafted by such
35 government body in the implementation of this Act;
36

37 (b) A copy of the reproduction fee schedule under Section 6 of this act,
38 the total proceeds collected from such fees and the use of such proceeds by
39 the government body;
40

41 (c) The number of determinations made by such government body to
42 refuse the requests for information made to such government body under
43 Section 8, the reasons for such determination;
44

45 (d) The names and titles or positions of officials responsible for the
46 refusal of requests under this Act, and the number of instances of
47 participation of each;
48

1 (e) The number of refused requests wherein the requesting person
2 sought remedies before the Office of the Ombudsman or before the regular
3 courts, and the names and titles or positions of officials concerned in these
4 cases;

5
6 (f) A copy of the information disclosed by the government body
7 pursuant to Section 10 of this act, including a description of the collaterals,
8 whether print or electronic, used in the dissemination of the said disclosed
9 information.

10
11 (g) A summary of other initiatives made by the government body,
12 whether or not mandated by this Act or any other law, that sought to enhance
13 and assist the implementation of this Act: and

14
15 (h) Such other information, which the government body deems as
16 necessary to disclose in relation to the implementation of this Act.

17
18 The Office of the Ombudsman shall submit an annual report on or
19 before March 1 of each calendar year, listing the number of cases filed before
20 it under Section 9 of this Act and the disposition of each case. The Solicitor
21 General shall likewise submit an annual report on or before March 1 of each
22 calendar year, listing the number of cases filed before the regular courts under
23 Section 9 of this Act, the disposition of each case, the names and positions or
24 titles of the officials penalized and the penalties assessed.

25
26 **SECTION 16. Oversight Committee.** For the effective implementation
27 of this Act, there shall be a Congressional Oversight Committee consisting of
28 five (5) members each from the Senate and House Representatives, which
29 shall be composed of the Chairpersons and members of the Committees on
30 Agriculture, Trade and Commerce, and Justice and Human Rights of both the
31 Senate and House of Representatives, which shall meet bi-annually to oversee
32 its implementation. The Congressional Oversight Committee shall be jointly
33 chaired by the Chairpersons of the Committees on Agriculture and Trade and
34 Commerce of the Senate and House and Representatives and shall be jointly
35 vice-chaired by the Chairpersons of the Committees on Justice and Human
36 Rights of the Senate and House and Representatives.

37
38 **SECTION 17. Separability Clause.** If for any reason, any part, section
39 or provision of this Act shall be held unconstitutional or invalid, no other
40 part, section or provision shall be affected thereby.

41
42 **SECTION 18. Repealing Clause.** All laws, decrees, executive orders,
43 rules and regulations, issuances or any parts thereof inconsistent with the
44 provisions of this Act are deemed repealed or amended accordingly.

45
46 **SECTION 19. Effectivity Clause.** This Act shall take effect immediately
47 after its publication in at least two (2) national newspapers of general
48 circulation.

1
2
3

Approved,