

SENATE

'19 JUL -8 P2:25

Senate Bill No. 265

RECEIVED BY: 

Introduced by Senator FRANCIS N. PANGILINAN

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

EXPLANATORY NOTE

The people's fundamental right to information on matters of public concern is guaranteed in *Section 7, Article III (Bill of Rights)* of the Constitution which states that:

*"The right of the people to information on matters of public concern shall be recognized. 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."*

*Section 28, Article II (Declaration of Principles and State Policies)* of the Constitution, which complements the above provision, declares as a state policy the full disclosure of all state transactions involving public interest. Said provision reads:

*"Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest."*

The constitutional provisions of the right to information and the policy of full public disclosure of government transactions are intended to promote the fundamental precepts of democracy, people's participation, public office being a public trust, government accountability and prevention of corruption.

While the Supreme Court has consistently held that the right to information under the Bill of the Rights is self-executory, there is a need to pass legislation that will provide the substantive and procedural details for its implementation which include reasonable conditions and limitations on the access granted consistent with the declared State policy of full public disclosure of all transactions involving public interest.

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




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

SECTION 1. *Short Title.* – This Act shall be known as the “People’s Freedom of Information Act.”

SEC. 2. *Declaration of Policy.* – The State recognizes the right of the people to information on matters of public concern and adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided by this Act. It is likewise the declared policy of the State to promote the meaningful and increased participation of the people in government decision-making and public accountability.

Public officials and employees, in the performance of their duties under this Act, as well as citizens in the exercise of their rights under this Act, shall handle information kept or obtained under this Act fairly, lawfully and with due regard to the full protection of the right to privacy of individuals.

SEC. 3. *Definition of Terms.* – As used in this Act:

- a) “Information” shall mean any public and/or official record, document, paper, report, letters, contract, minutes and transcripts of official meetings, maps, books, photographs, data, research material, film, audio and video recordings,



1 magnetic or other tapes, electronic data, computer stored data, or archived in  
2 whatever form or format, which are made, received or kept in or under the  
3 control and custody of any government agency pursuant to law, executive  
4 order, rules and regulations, ordinance or in connection with the performance  
5 or transaction of official business by any government agency.

6 b) "*Official record/ records*" shall refer to information, in final form produced or  
7 received by a public officer or employee, or a government agency in an official  
8 capacity or pursuant to a public function or duty.

9 c) "*Public record/records*" shall include information required by law, executive  
10 orders, rules or regulations to be entered, kept and made publicly available by  
11 a government agency.

12 d) "*Public service contractor*" shall be defined as a private entity that has a dealing,  
13 contract or transaction of whatever nature with the government or a  
14 government agency/ office that utilizes public funds.

15 e) "*Personal information*" shall refer to any information whether recorded in a  
16 material form or not from which the identity of an individual is apparent or  
17 can be reasonably and directly ascertained by the entity holding the  
18 information or when put together with other information would directly and  
19 certainly identify an individual.

20 f) "*Sensitive personal information*" shall refer to personal information:

21 1) about an individual's race, ethnic origin, marital status, age, color and  
22 religious, philosophical or political affiliations;

23 2) about an individual's health, education, genetic or sexual life of a person  
24 or to any proceedings for any offense committed or alleged to have been  
25 committed by such person, the disposal of such proceedings, or the  
26 sentence of any court;

1           3)    issued by government agencies peculiar to an individual which includes,  
2                   but not limited to, social security numbers, previous or current health  
3                   records, licenses or its denials, suspension or revocation and tax returns;  
4                   and

5           4)    specifically established by an executive order or an act of Congress to be  
6                   kept classified.

7           g)    “*Personal data*” refers to any and all forms of data, which, under the Rules of  
8                   Court and other pertinent laws constitute privileged communication.

9           **SEC. 4. Coverage.** – This Act shall cover all government agencies which shall include  
10           the executive, legislative and judicial branches as well as the constitutional bodies of the  
11           Republic of the Philippines, including but not limited to, the national government and all  
12           its agencies, departments, bureaus, offices and instrumentalities, constitutional  
13           commissions and constitutionally mandated bodies, local governments and all their  
14           agencies, regulatory agencies, chartered institutions, government-owned-or-controlled  
15           corporations (GOCCs), including government financial institutions (GFIs), government  
16           instrumentalities with corporate powers (GICP), government corporate entities (GCE),  
17           and non-chartered GOCCs, and state universities and colleges.

18           **SEC. 5. Access to Information.** – Every Filipino citizen has a right to and shall, on  
19           request, be given access to any information of public concern under the control of a  
20           government agency regardless of the physical form or format in which they are  
21           contained subject only to the exceptions enumerated in Section 7 of this Act.

22           **SEC. 6. Presumption.** – There shall be a legal presumption in favor of access to  
23           information. No request for information shall be denied unless it clearly falls under the  
24           exceptions provided under this Act. Accordingly, government agency shall have the  
25           burden of proof of showing by clear and convincing evidence that the information  
26           requested is exempted from the disclosure by this Act.

27           **SEC. 7. Exceptions.** – Access to information shall be granted unless:



1 a) The information is specifically authorized to be kept confidential under  
2 guidelines established by an Executive Order, and in fact properly classified  
3 pursuant thereto: *Provided, That*

4 1) The information directly relates to national security or defense and its  
5 revelation may cause damage to the national security or internal and  
6 external defense of the State;

7 2) The information requested pertains to the foreign affairs of the Republic  
8 of the Philippines, when its revelation shall unduly weaken the  
9 negotiating position of the government in an ongoing bilateral or  
10 multilateral negotiation or seriously jeopardize the diplomatic relations  
11 of the Philippines with any State, or prejudice the entrusting of  
12 information to the Republic of the Philippines on a basis of confidence by  
13 the government of any other country or any international organization:  
14 *Provided, That* sufficient information is disclosed to afford reasonable  
15 public participation in government decision-making on bilateral and  
16 multilateral agreements: *Provided, further, That* the head of the  
17 department or agency having custody or possession of such information,  
18 shall keep under continuing review all classified information in his  
19 custody and may direct the declassification review of such review as  
20 needed. Declassification of information shall be subject to the approval  
21 of the President.

22 b) The information consists of minutes or records of advice given or of options  
23 expressed during decision making or policy formulation including exchanges  
24 when the Chief Executive was not present, if invoked by the Chief Executive  
25 to be part of presidential communications privilege. Whenever disclosure  
26 would significantly undermine the free and frank provision of advice or  
27 exchange of views: *Provided, That* an executive order shall be issued specifying

1 the reasonable period after which information invoked to be privileged under  
2 this paragraph shall be made accessible to the public.

3 c) The information requested pertains to internal auditor and/or eternal defense,  
4 law enforcement, and border control, when the disclosure thereof may:

5 1) Compromise or interfere with any legitimate military or law enforcement  
6 operation; or

7 2) Compromise or interfere with the legitimate prevention, detection or  
8 suppression of criminal activity, or the legitimate implementation of  
9 immigration controls and border security; or

10 3) Lead to the disclosure of the identity of a confidential source, including  
11 a government, or foreign agency or authority or any private institution  
12 which furnished information compiled by law enforcement authority in  
13 the course of an investigation or by an agency conducting a lawful  
14 national security intelligence investigation or by an agency conducting a  
15 lawful national security intelligence investigation, information furnished  
16 by a confidential source; or

17 4) Disclose legitimate techniques and procedures for law enforcement  
18 investigations or prosecutions, or would disclose legitimate guidelines  
19 for law enforcement investigations or prosecutions if such disclosure  
20 could reasonably be expected to risk circumvention of the law; or

21 5) Endanger the life or physical safety of any individual; or

22 6) Deprive a person of a right to a fair trial and impartial adjudication.

23 d) The information requested pertains to matters of human security, such as, but  
24 not limited to, food, health, money and trade: *Provided*, That such disclosure  
25 or premature disclosure will imperil our well-being or degrade the quality of  
26 life of our people by causing unnecessary panic and conflict and threatening  
27 to limit the range of policy choices available to the concerned implementing



1 and regulating agencies: *Provided, further,* That this exception shall apply only  
2 until such time that the confidentiality requirement of the action plan of said  
3 agency is no longer

4 e) The information requested pertains to the assistance of government to  
5 overseas Filipino workers, including, but not limited to their cases and records  
6 on criminal and family cases; and information that could compromise or  
7 weaken their case or position in any legal proceeding;

8 f) The information requested involve records of foreign diplomats on diplomatic  
9 and consular missions, their arrival and departure, and other information that  
10 could compromise their safety or that such information is considered  
11 confidential by the Vienna Convention on Diplomatic Relations and the  
12 Vienna Convention on Consular Relations;

13 g) The information requested are exempted under a treaty or bilateral agreement  
14 to which the Philippines is a party;

15 h) The information requested consists of drafts or orders, resolutions, decisions,  
16 memoranda or audit reports by any executive, administrative, regulatory,  
17 constitutional, judicial or quasi-judicial body in the exercise of their regulatory,  
18 audit and adjudicatory function. The revelation of which would impair the  
19 impartiality of verdicts or otherwise obstruct the administration of justice.

20 i) The information requested or obtained by either House of Congress, or any  
21 committee thereof, in executive session.

22 j) The information requested pertains to the personal and sensitive information  
23 of a natural person other than the requesting party, and its disclosure would  
24 constitute an unwarranted invasion of his or her personal privacy, unless it  
25 forms part of a public record, and the person is or was an official or employee  
26 of a government agency and the information relates to his public function and  
27 the person has consented, in writing, to the disclosure of the information. To

1 the extent required to prevent an unwarranted invasion of privacy, an agency  
2 ma redact such personal data from a record made available to the public.

3 k) The information requested forms part of a public record but its disclosure  
4 would expose the people concerned to acts of discrimination, unless such  
5 information is first redacted by the concerned government agency.

6 l) The information requested pertains to trade secrets and commercial or  
7 financial information obtained from a natural or juridical person other than  
8 the requesting party, obtained in confidence or covered by privileged  
9 communication, and/or filed with a government agency, whenever the  
10 revelation thereof would prejudice the interests of such natural or juridical  
11 person in trade, industrial, financial or commercial competition. This includes  
12 information protected under the Anti-Money Laundering Law, as amended,  
13 and the bank secrecy laws.

14 m) The information is required to be kept confidential by law or consists of  
15 privileged information unless the person entitled to the privilege has waived  
16 it.

17 n) The information requested is exempted from disclosure by Constitution or by  
18 law.

19 o) The information is of a nature that its premature disclosure would:

20 1) In the case of an agency that regulates or deals with currencies, interest  
21 rates, securities, commodities, or financial institutions, be likely to lead  
22 speculations in currencies, interest rates, securities or commodities  
23 market, or

24 2) In the case of other agencies, be likely to frustrate the effective  
25 implementation of a proposed official action: *Provided*, That the  
26 information shall be disclosed once the aforementioned dangers have  
27 ceased.



1 p) The information has already been made accessible as provided in Sections 8(a),  
2 9, 11 and 14 of this Act.

3 q) The information requested pertains to information about the ongoing  
4 evaluation or review of bids or proposals undertaken by the bidding or review  
5 committee prior to an official recommendation by the government.

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

- 10 1) The exceptions are strictly construed;
- 11 2) The exceptions are not used to cover-up a crime, or any unlawful activity;
- 12 3) The President, the Supreme Court, the Senate, the House of  
13 Representatives, and the Constitutional Commissions with a majority  
14 vote of the body in accordance with their own rules of procedure when  
15 applicable may waive an exception with respect to information in the  
16 custody of offices under their respective supervision or control, when  
17 they deem that there is an overriding public interest in disclosure;
- 18 4) The exceptions do not constitute authority to withhold information from  
19 or limit the availability of records to Congress, or any of its committees;
- 20 5) The exceptions do not constitute an authority of the executive branch of  
21 a local government unit to withhold information from its legislative  
22 body;
- 23 6) Whenever the information requested is part of a record, whose other  
24 parts are covered by an exception, but may be reasonably severed from  
25 a record, the responding official shall communicate the information not  
26 covered by the exception to the requester; and

1           7) The exceptions set forth in this Section may be overcome if the requester  
2           is able to prove before a court of competent jurisdiction that the public  
3           interest in the disclosure of information outweighs the public interest in  
4           keeping the information secret or confidential;

5           All exempted information under this Section shall be mandatorily reviewed after  
6           every three (3) years by the head of office or agency in custody or control of the  
7           information for reclassification and possible disclosure. *Provided,* That such information  
8           to be disclosed by an agency under the executive branch shall be subject to the approval  
9           of the President.

10       **SEC. 8. Mandatory Disclosure of Information. -**

11       a) In fulfillment of Art, XI, Section 17 of the Constitution, the following national  
12       officials shall disclose to the public their Statement of Assets, Liabilities, and  
13       Net Worth (SALN) on an annual basis in their official website:

- 14       1) President;
- 15       2) Vice-President;
- 16       3) Members of the Cabinet;
- 17       4) Members of Congress;
- 18       5) Justices of Supreme Court;
- 19       6) Members of Constitutional Commissions and other constitutional offices;
- 20       7) Officers of the Armed Forces with general or flag rank.

21       b) All agencies of all branches of government shall upload on their websites,  
22       which shall be updated monthly, a register of the following public interest  
23       transactions, documents or records, including:

- 24       1) Annual Budget of Government Agencies;
- 25       2) Itemized Monthly Collections and Disbursement;
- 26       3) Summary of Income and Expenditures;
- 27       4) Component of the IRA Utilization;



- 1           5)   Annual Procurement Plan and Procurement List;
- 2           6)   An updated plantilla of positions and vacant positions with
- 3               qualifications/requirements in their organizations that need to be filled
- 4               up;
- 5           7)   Items to Bid;
- 6           8)   Bid Results on Civil Works, and Goods and Services;
- 7           9)   Abstract of Bids As Calculated;
- 8           10)  Procurement contracts entered into by a government agency;
- 9           11)  Construction of concession agreements or contracts entered into by a
- 10               government agency with any domestic or foreign person or entity;
- 11           12)  Private sector participation agreements or contracts in infrastructure and
- 12               development projects under Republic Act No. 6957, as amended by
- 13               Republic
- 14           13)  Act No. 7718, authorizing the financing, construction, operation and
- 15               maintenance of infrastructure projects;
- 16           14)  Public funding extended to any private entity;
- 17           15)  Bilateral or multilateral agreements and treaties in trade, economic
- 18               partnership, investments, cooperation and similar binding
- 19               commitments;
- 20           16)  Licenses, permits or agreements granted by any government agency to
- 21               any person or entity for the extraction and/or utilization of natural
- 22               resources and a list of the grantees;
- 23           17)  Guarantees given by any government agency to government-owned or
- 24               controlled corporations and to private corporations, persons or entities;
- 25           18)  Loans from domestic and foreign financial institutions;
- 26           19)  Loans, grants, development assistance, technical assistance, and
- 27               programs entered into by government agency with official bilateral or

1                   multilateral agencies, as well as with private aid agencies or institutions;  
2                   and

3                   20) Compromise agreements entered into by a government agency with any  
4                   person or entity.

5                   The register shall contain a brief description of the transaction involved including,  
6                   but not limited to, the nature and object of the transaction, the parties, and amounts  
7                   involved, the key steps undertaken towards its conclusion, and the relevant dates  
8                   provided that contracts and agreements involving an amount of at least Fifty Million  
9                   Pesos (Php50,000,000.00) shall be uploaded in full on the website of the concerned  
10                  government agency or the Official Gazette online. A covered record shall be enrolled in  
11                  the register not later than thirty (30) working days from the perfection or issuance.

12                 **SEC. 9. *Openness and Transparency in Government Agencies.*** – Each government  
13                 agency shall make available upon the request of any citizen at no cost and in an accessible  
14                 form, consistent with the provisions of Republic Act No. 9485, or the Anti-Red Tape Act  
15                 of 2007, and through their website, timely, true, accurate and updated key information  
16                 including, but not limited to:

- 17                 1) A description of its mandate, structure, powers, functions, duties and  
18                 decision-making processes;
- 19                 2) A description of the frontline services it delivers and the procedure and  
20                 length of time by which they may be availed of;
- 21                 3) The names of its key officials, their powers, functions, and  
22                 responsibilities, and their profiles;
- 23                 4) Audited financial statements, and budget and expenditure records;
- 24                 5) Statement of assets, liabilities and net worth of all public officials with  
25                 Salary Grade 27 and above or heads of office;

- 1           6) Monthly income including allowances and sources of income of all  
2           public officials with Salary Grade 27 and heads of office, provided that  
3           names of minor children, if any, may be redacted;
- 4           7) Work programs, development plans, projects, performance targets and  
5           accomplishments, and budgets, revenue allotments and expenditures;
- 6           8) Important rules and regulations, orders or decisions: *Provided*, That they  
7           be published within fifteen (15) calendar days from promulgation;
- 8           9) Rules of procedure, descriptions of forms available or the places at which  
9           forms may be obtained, and instructions as to the scope and contents of  
10          all papers, reports or examinations;
- 11          10) Substantive rules of general applicability adopted as authorized by law,  
12          and statements of general policy or interpretations of general  
13          applicability formulated and adopted by the agency, including  
14          subsequent amendments;
- 15          11) Current and important database and statistics that it generates;
- 16          12) Bidding processes, deadlines and requirements; and
- 17          13) Mechanisms or procedures by which the public may participate in or  
18          otherwise influence the formulation of policy or the exercise of its  
19          powers;
- 20          14) Any disclaimer that shall announce true and correct information relative  
21          to a matter of public concern that has been the subject of untruthful or  
22          inaccurate publication in media.

23          All government agencies shall over time endeavor and build the capacity and  
24          practice to upload in full all other contracts, agreements or treaties covered under this  
25          section, in particular those that are of the highest public interest by reason of the amounts  
26          involved and the impact of the transaction to the public.



1       **SEC. 10. *Protection of Privacy.*** – While providing for access to information in public  
2 records, this Act also affords full protection of the right to privacy of individuals, as  
3 follows:

- 4       a) Disclosure of public records involving personal data shall be guided by the  
5 principle of transparency, legitimate purpose, and proportionally;
- 6       b) A government agency must ensure that personal data in its custody or under  
7 its control is disclosed only as permitted under this Act;
- 8       c) A government agency must protect personal data in its custody or under its  
9 control in accordance with the provisions of the Data Privacy Act of 2012, its  
10 implementing rules and regulations, and issuances by the National Privacy  
11 Commission;
- 12       d) An employee, officer or official of a government agency who has access,  
13 whether authorized or unauthorized, to personal data in the custody of the  
14 agency, has the duty to keep the personal data confidential except as  
15 authorized under this Act.

16       **SEC. 11. *Freedom of Information Manual.*** –

- 17       a) For the effective implementation of this Act, all government agencies shall  
18 prepare a Freedom of Information Manual, within six (6) months from the  
19 effectivity of this Act indicating the following:
  - 20           1) The location and contact information of the head, regional, provincial  
21 and field offices, and other established places where the public can obtain  
22 government information or submit requests;
  - 23           2) The types of information it generates, produces, holds and/or publishes;
  - 24           3) A description of its record-keeping system;
  - 25           4) The person or office responsible for receiving requests for information;
  - 26           5) The procedure for the filing of requests personally, by mail, or through  
27 the identified electronic means;

- 1           6)   The standard forms for the submission of request and for the proper  
2           acknowledgment of the request;
- 3           7)   The process for the disposition of the request, including the routing of  
4           the request to the person or office with the duty to act on the request, the  
5           decision making process, and the grant or denial of access and its  
6           implementation;
- 7           8)   The procedure for the administrative appeal of any denial for access to  
8           information;
- 9           9)   The schedule of fees;
- 10          10)  The process and procedure for the mandatory disclosure of information  
11          under Section 8 of this Act. *Provided*, That should the agency lack the  
12          capacity to fully comply therewith, a brief description of its plan to  
13          facilitate compliance within three (3) years from the approval of this Act;
- 14          11)  Such other information, taking into consideration the unique  
15          characteristics of an agency, that will help facilitate the effective  
16          implementation of this Act;
- 17          12)  The foregoing information shall also be posted in its website and bulletin  
18          boards, and shall be regularly updated;
- 19          13)  In no case shall the absence of the aforementioned Manual be a reason  
20          for the denial of any request for information made in accordance with  
21          this Act; and
- 22          14)  The heads of each of the departments and agencies may designate liaison  
23          units or Committees who shall coordinate with the other units of the  
24          agency in implementing this Act. The composition, functions and duties  
25          of these liaison units or Committees shall be included in the FOI Manual.

26       **SEC. 12. *Procedure of Access.* –**

- 1       a) Any person who wishes to obtain information shall submit, free of charge, a  
2       request to the government agency concerned personally, by mail, or through  
3       electronic means. A person who is unable to make a written request for  
4       information, because of illiteracy or disability, may make an oral request, and  
5       the public official who receives the oral request shall reduce it to writing, and  
6       include his name and position within the government agency, and give a copy  
7       thereof to the requesting party. The request shall state the name and preferred  
8       contact information required, the reason for the request of the information and  
9       the preferred means by which the government agency shall communicate such  
10      information to the requesting party: Provided, That the stated reason shall not  
11      be used as a ground to deny the request or to refuse the acceptance of the  
12      request, unless such reason is contrary to law, public order or public policy. If  
13      the request is submitted personally, the requesting party shall show his  
14      current identification card issued by any government agency, or government  
15      or private employer or school, or a community tax certificate. If the request is  
16      submitted by mail or through electronic means, the requesting party may  
17      submit a photostatic or electronically scanned copy of verifiable identification,  
18      or other convenient means as determined by the agency.
- 19      b) The public official receiving the request shall provide reasonable assistance,  
20      free of charge, to enable all requesters and particularly those with special  
21      needs, to comply with the request requirements under this section.
- 22      c) The request shall be stamped by the government agency, indicating the date  
23      and time of receipt and the name, rank, title and position of the receiving  
24      public official or employee with the corresponding signature, and a copy  
25      thereof furnished to the requesting party. In case the request is submitted by  
26      electronic means, the government agency shall provide for an equivalent  
27      means by which the requirements of this paragraph shall be met. Each



1 government agency shall establish a system to trace the status of all requests  
2 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 of  
5 receiving are reasonable and, taking into consideration equipment normally  
6 available to the concerned 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  
10 means would unreasonably interfere with the effective operation of the agency  
11 or be 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  
14 period may be extended whenever the information requested requires a search  
15 of the government agency's field or satellite offices, examination of  
16 voluminous records, the occurrence of fortuitous events or other analogous  
17 cases.

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

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

25 If the information is not held by the government agency to which the request was  
26 made, it shall notify the requester that it does not hold the information, and indicate to  
27 the requester which agency holds the record, if known. Whenever practicable, the agency

1 receiving the request may also cause the transfer of the request to the appropriate agency  
2 that holds the information. *Provided*, That the period to comply with the request under  
3 this section shall begin to run only upon the receipt of the agency to which the request is  
4 transferred.

5 **SEC. 13. *Access and Processing Fees.*** – Government agencies may charge a  
6 reasonable fee which shall in no case exceed the actual cost of reproduction, copying or  
7 transcription and the communication of the information requested. An agency may waive  
8 the fees whenever it is satisfied that the requester is an indigent, or that the cost of  
9 reproduction is negligible, or that it is pursuant to a program for proactive disclosure.

10 **SEC. 14. *Exemption from Compliance.*** – A government agency is excused from  
11 complying with a subsequent identical or substantially similar request from the same  
12 requesting party if both requests will require the agency to provide the same information  
13 to the requesting party, unless a reasonable interval has lapsed between compliance with  
14 the previous request and the making of the current request. *Provided*, That the  
15 government agency complies with Section 15 of this Act.

16 **SEC. 15.- *Notice of Denial.*** – If the government agency decides to deny the request,  
17 in whole or in part, it shall, as soon as practicable, and in any case within fifteen (15)  
18 calendar days from the receipt of the request, notify the person making the request of  
19 such denial in writing or through electronic means. The notice shall clearly set forth the  
20 ground or grounds for denial and the circumstances on which the denial is based, and  
21 indicate available rights of reconsideration or appeal. Failure to notify the person making  
22 the request of the denial, or of the extension, shall be deemed a denial of the request for  
23 access to information.

24 **SEC. 16. *Remedies in Cases of Denial Request for Information.*** –

25 a) In all government agencies other than the judicial branch:

- 26 1) Every denial of any request for access to information may be appealed to  
27 the person or office next higher in authority of the same agency,



1 following the procedure mentioned in Section 11 (a)(8) of this Act.  
2 Provided, That the written appeal must be filed within fifteen (15)  
3 calendar days from the notice of denial. The appeal shall be decided by  
4 the person or office next higher in authority of the same agency within  
5 five (5) working days from filing of said written appeal. Failure of the  
6 government agency to decide within the aforesated period shall  
7 constitute a denial of the appeal.

- 8 2) Upon denial of the appeal with the government agency, the requesting  
9 party may file a verified petition for mandamus in the proper court,  
10 alleging the facts with certainty and praying that judgment be rendered  
11 ordering the respondent, immediately or at some other time to be  
12 specified by the court, to disclose the requested information. Unless  
13 restrained or enjoined, the decision of the court shall immediately  
14 executory without prejudice to review in accordance with the Rules of  
15 Court. Any action for administrative and/or criminal liability arising  
16 from the same act or omission, if any, shall be filed with the Office of the  
17 Ombudsman.

18 No damages shall be assessed against the respondent unless it is proven  
19 that the respondent acted with malice, bad faith or negligence. Subject to the  
20 provisions of existing laws and the issuances of the Supreme Court, all courts  
21 shall give preference to the hearing and disposition of petitions for mandamus  
22 filed pursuant to the provisions of this Act. The court hearing the case is  
23 empowered to receive the information subject of a claim of exception under  
24 Section 7 therein and examine them in camera to determine the sufficiency of  
25 the factual and legal basis of such claim, when such sufficiency cannot be  
26 reasonably determined through evidence and circumstances apart from the  
27 information.



1       b) In the Judicial branch, the judiciary shall be governed by such remedies as  
2       promulgated by the Supreme Court.

3       c) The remedies provided in this section are without prejudice to any other  
4       administrative, civil or criminal action covering the same act.

5       d) The remedies available under this Act shall be cumulative and subject to the  
6       rule of exhaustion of administrative remedies.

7             The provisions of Republic Act No. 9285, otherwise known as the  
8       Alternative Dispute Resolution Act of 2004, shall not apply to cases filed  
9       pursuant to this section.

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

13      **SEC. 17. *Keeping of Records.* –**

14      a) Government agencies shall create and/or maintain in appropriate formats,  
15      accurate and reasonably complete documentation or records of their  
16      organization, policies, transactions, decisions, resolutions, enactments,  
17      actions, procedures, operations, activities, communications and documents  
18      received or filed with them and the data generated or collected. These shall  
19      include working files such as drafts or noted, whenever these have been  
20      circulated within the agency for official purpose such as for discussion,  
21      comment or approval or when these contain unique information that can  
22      substantially contribute to a proper understanding of the agency organization  
23      policies, transactions, decisions, resolutions, enactments, actions, procedures,  
24      operations, and activities. This likewise include information submitted by  
25      public service contractors to the government agency concerned such as  
26      receipts, identities of the suppliers, purchase orders, cash vouchers, related  
27      agreements with other private entities, and other documents related to the

1 execution or the implementation of their transactions or contracts with the  
2 government agency involved.

3 b) Government agencies shall identify specific and classes of official records in  
4 their custody or control that have continuing historical, administrative,  
5 international, legal, evidentiary or research value for preservation by such  
6 agencies or their legitimate successors, or for transfer to the National Archives  
7 of the Philippines. In addition, the National Archives of the Philippines shall  
8 likewise identify specific and classes of official records that it shall require  
9 agencies to preserve and transfer to it.

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

- 13 1) Records pertaining to loans obtained or guaranteed by the government;
- 14 2) Records of government contracts;
- 15 3) The declaration under oath of the assets, liabilities and net worth of  
16 public officers and employees, as required by law, and
- 17 4) Records of official investigations pertaining to allegations of graft and  
18 corruption of public officers.

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

- 23 1) A records maintenance system for the creation, selection, classification,  
24 indexing and filing of official records that facilitate the easy  
25 identification, retrieval and communication of information to the public;
- 26 2) A records maintenance, archival and disposition schedule providing a  
27 listing of records under current use, for retention by the agency, for

1 transfer to the National Archives, or for destruction: Provided, That  
2 destruction of the official records may be implemented only upon  
3 approval of the National Archives of the Philippines; and

4 3) A specification of the roles and responsibilities of agency personnel in  
5 the implementation of such system and schedule.

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

13 1) All laws of the Philippines and their amendments, from the period of the  
14 Philippine Commission to the present;

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

19 3) A database of all appointments and designations made by the President  
20 of the Philippines; and

21 4) Opinions of the Secretary of Justice.

22 **SEC. 18. *Publication in the Official Gazette.*** – For purposes of mandatory  
23 disclosure as provided in Section 8 of this Act, online publication in the Official Gazette  
24 website shall be considered official publication provided there shall be a timestamp in  
25 the said document.



1 For purposes of compliance with Article 2 of the Civil Code of the Philippines,  
2 publication of the following in the online version of the Official Gazette, with the  
3 corresponding timestamps on the documents, shall be considered as official publication:

- 4 a) All legislative acts and resolutions of a public nature of the Congress of the  
5 Philippines;
- 6 b) All executive and administrative orders and proclamations of general  
7 application;
- 8 c) Decisions or abstracts of decisions of the Supreme Court and the Court of  
9 Appeals or other courts of similar rank, as may be deemed by said courts of  
10 sufficient importance to be so published;
- 11 d) Such documents or classes of documents as the President shall determine from  
12 time to time to have general application or which he may authorize to be  
13 published. However, other documents or classes of documents as may be  
14 required to be published by law, such as petitions and/or legal notices in  
15 connection with land titles, naturalization or special proceedings shall  
16 continue to be published in the print version of the Official Gazette or in any  
17 newspaper of general circulation for purposes of compliance with the  
18 publication requirement.

19 **SEC. 19. *Capacity-Building, Promotion of Best Practices and Continuous Updating***  
20 ***of Appropriate Information Technology and FOI.*** – All government agencies must ensure  
21 that they have a compliant website within two (2) years from the date of effectivity of this  
22 Act. The Department of Information and Communications Technology (DICT) shall  
23 monitor all government agency websites and render the appropriate support including  
24 capacity-building program and coordination with another appropriate agency, utilizing  
25 alternative mechanism and seeking the assistance of private relevant and willing  
26 volunteer groups to ensure full compliance with the requirements of this Act.

1 In the performance of its monitoring function of government websites and portals,  
2 the DICT shall endeavor to continuously develop, improve and update its information  
3 technology system taking into consideration usability and practical accessibility of  
4 government documents by the public.

5 The DICT shall be responsible for setting the standards for the file formats to be  
6 used by the political subdivisions of the State. All national and local government agencies  
7 including GOCCs with or without an original charter in the publication of government  
8 public information in accordance with the provisions of this Act.

9 Every government agency shall ensure the provision of adequate training for its  
10 officials to improve awareness of the people's right to information and the provisions of  
11 this Act, and to keep updated as to best practices in relation to information disclosure,  
12 records maintenance and archiving.

13 **SEC. 20. *Use of Plain Language.*** - Every government agency shall endeavor to use  
14 plain language in their communications orders, compliance requirements or instructions  
15 issued to implement the provisions of this Act. The government agencies shall translate  
16 key information into major Filipino languages and present them in popular form and  
17 means:

- 18 1) To carry out the provision of this Act, the Civil Service Commission  
19 (CSC) is designated to issue guidelines on the use of plain language to  
20 suit the needs of the requesting party;
- 21 2) The CSC shall provide the necessary training to employees of each  
22 government agency in using plain language in public documents.
- 23 3) All departments, agencies and instrumentalities of the national  
24 government, including government-owned or-controlled corporations,  
25 local government units and state colleges and universities shall designate  
26 an official responsible for implementing the plain language; and



- 1           4) Website contents including, but not limited to, financial data, notices and  
2           other technical and legal documents, of government agencies must also  
3           be written in plain language to ensure that these information are easy to  
4           read, understand and use.

5       **SEC. 21. *Administrative Offenses and Penalties.* -**

- 6       a) The acts enumerated in this sub-section shall be tantamount to grave  
7       administrative offenses and shall constitute grounds for administrative and  
8       disciplinary sanction against any public official or employee who willfully and  
9       knowingly commits the following:

- 10       1) Refusal to promptly forward the request under Section 12 of this Act to  
11       the public officer within the same office or agency responsible for  
12       officially action on the request when such is the direct cause of the failure  
13       to disclose the information within the periods required by this Act.  
14       2) Failure to act on the request within the periods required by this Act;  
15       3) Refusal to comply with the decision of his immediate supervisor, or of  
16       any court ordering the release of information;  
17       4) Approval of the policies, rules and regulations clearly contrary to the  
18       provisions of this Act, and which policies, rules and regulations are the  
19       direct cause of the denial of the request for information;  
20       5) Failure to upload information required to be posted in the agency's  
21       website within the period provided under Section 19: Provided; That the  
22       head of the agency or any other officer or employee tasked to perform  
23       said uploading shall be held liable.

- 24       b) The preceding subsection does not bar filing of appropriate administrative cases  
25       other than those grave offenses enumerated above.

26       **SEC. 22. *Criminal Offenses and Penalties.*** The penalty of imprisonment of not less  
27       than one (1) month but not more than six (6) months and a fine ranging from ten thousand



pesos (Php 10,000.00) to one hundred thousand pesos (Php 100,000.00) shall be imposed upon:

- a) Any public official or employee who falsely denies or conceals the existence of information that is a proper subject for disclosure under this Act.
- b) Any individual who knowingly directed, induced or caused the commission of the foregoing acts shall be liable as principal by inducement in the prosecution of public officials or employees under this section.
- c) Any public officer or employee responsible for officially acting on the request, who shall claim an exception undersection 7 of this Act, or under the Constitution, when such claim is manifestly devoid of factual basis.
- d) Any individual who divulged or released information covered under Section 7 of this Act.
- e) Any public officer or employee who divulged or released information that is altered, tampered or modified to the extent that the released information materially differs from the original contents of the document: *Provided, That* altering or modifying a document for the purpose of severing an exempt information from non-exempt information in a single document shall not be punishable under this subsection.
- f) The responsible officers of the public service contractor and the signatories to the contract or any document evidencing transaction with the government or government agency who fail to submit the necessary documents/papers.

If the violation committed in this Act is induced and assisted by a private individual or a corporation, partnership or any kind of judicial entity, the penalty provided herein shall be imposed on its executive officer and/or other officials responsible therefor: *Provided, That* they shall suffer, in addition to the penalties provided herein, the automatic revocation of their license to operate.

Any public official or employee who willfully destroys, or causes to be destroyed, or sells, information and/or documents being requested under this Act, for the purpose of frustrating the requesting party's access thereto shall suffer a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (Php1,000,000.00) or a penalty of five (5) years but not more than fifteen (15 years or both, as provided in Republic Act No. 9470 or the National Archives Act.

**SEC. 23. *Denial in Good Faith Not a Ground for Liability.*** – A denial in good faith of a request made pursuant to the provisions of this Act shall not constitute grounds for administrative, civil or criminal liability. In cases of denial of the request, the public official, officer, or employee involved must prove that he/she acted in good faith by specifying the ground relied upon for the denial.

**SEC. 24. *Act Not a Bar to Claim of Right to Information Under the Constitution.*** – No provision of this Act shall be interpreted as a bar to any claim of the right to information under Article III, Section 7 of the Constitution.

**SEC. 25. *Integration of Freedom of Information (FOI) and Good Governance in Elementary and Secondary Curriculum.*** – To ensure a well-informed generation of citizens, the right to information, the principles of accountability and transparency, democracy and leadership, and good governance shall be integrated in such subjects as *Heyograpiya, Kasaysayan at Sibika* (HEKASI) and *Araling Panlipunan* in the elementary level and in such subjects as Social Studies and *Makabayan* or its equivalent studies in high school level. The Department of Education in coordination with the Civil Service Commission and other relevant offices shall prepare the necessary modules and teaching programs consistent with the objectives of this Act.

**SEC. 26. *Reports on FOI.*** – All government agencies shall be registered to submit annual reports on the number of requests for information received and processed, of appeals made from the denial thereof, and such other information as provided in this Act. The said report may be integrated in the agencies' main Annual Reports. Their



posting and publication in the agencies' respective websites shall be considered sufficient compliance.

**SEC. 27. *System of Incentives and Rewards.*** – A system of special incentives and rewards is hereby established to be given to appropriate government agency or agencies that initiated and displayed compliance and full participation in the meaningful implementation of this Act. The incentives and rewards may include, but shall not be limited to, social projects, grants-in-aid, national recognition and similar entitlements.

**SEC. 28. *Appropriations.*** – The amount necessary to carry out the provisions of this Act shall be charged against the agencies' current budget and shall thereafter be included in the annual General Appropriations Act.

**SEC. 29. *Separability Clause.*** – If any section or part of this Act is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force and effect.

**SEC. 30. *Repealing Clause.*** – All laws, decrees, executive orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Act, including Sections 18, 24, and 25 of Executive Order No. 292 in relation to Article 2 of Republic Act No. 386, Memorandum Circular No. 78 dated 14 August 1964 (Promulgating Rules Governing Security of Classified Matter in Government Offices), as amended, and Section 3, Rule IV of the Rules Implementing Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees), are deemed repealed: *Provided:* That Memorandum Circular No. 78 shall be deemed repealed after one (1) year from the effectivity of this Act or upon issuance of the Executive Order in Section 7(a) whichever comes first.

**SEC. 31. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

*Approved,*