

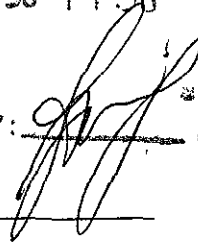
FOURTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

SENATE  
OFFICE OF THE SECRETARY

7 JUN 30 P1:56

SENATE

S. No. 109

RECEIVED BY: 

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INTRODUCED BY THE HONORABLE MAR ROXAS

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EXPLANATORY NOTE

It is the Constitutional right of citizens to information on matters of public concern. A people's confidence in their government is largely reliant on transparency in the state's affairs, which entails the efficient disclosure of official information. This recognizes the vital role of communication and information in empowering the people in nation-building.

The state of governance at present is hounded by the lack of transparency, leading to the erosion of faith in the country's leaders, in the bureaucracy and in the government at-large. Not only does this contradict the right to information by citizens, but also hampers efficient, effective and meaningful governance needed in spurring economic activity. Access to official information, records, documents and papers pertaining to official acts, processes, transactions and decisions by the government, as well as government research and data could be used to help private citizens in making decisions themselves.

Indeed, free access to information is not only a human right, but also a practical tool which can be used to invigorate the economy. The nation's progress must rely on building trust between the people and the State.

This bill seeks to implement the Constitutional guarantee to free access by the people to official information, except when the disclosure of such information would jeopardize other prerogatives of the government, namely, the protection of the privacy of individuals, trade secrets, national security, public order and safety, and foreign diplomatic relations.

The bill proposes the adoption by all government bodies a mechanism wherein all written requests for information shall be responded to within two days, unless proper justification is given by the government body, subject only to the payment of reasonable fees for the viewing or reproduction of such information. To compel disclosure of information, in case a government body refuses access to such information on whatever grounds, the Office of the Ombudsman would be tapped to hear any citizens' complaints of not being properly assisted by the pertinent government body. Furthermore, penalties will be levied to officials or employees who knowingly and unjustly refuse to provide access to information, or who consciously release false or misleading information.

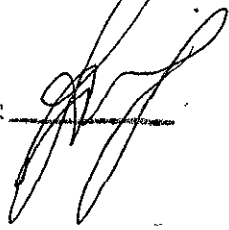
In view of the foregoing, the immediate enactment of this measure is earnestly sought.

  
M A R ROXAS  
Senator

FOURTEENTH CONGRESS OF THE )  
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AN ACT  
IMPLEMENTING THE CONSTITUTIONAL RIGHT OF ACCESS TO INFORMATION,  
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 "Free Information Act."

2 SEC 2. *Declaration of Policy.* It is the policy of the state to ensure the Constitutional  
3 right of the people to information on matters of public concern, and to adopt and implement  
4 a policy of full public disclosure of all its transactions involving public interest. Furthermore,  
5 the State recognizes the vital role of communication and information in empowering the  
6 people to be involved in nation building.

7 In this light, the State shall afford to citizens access to official records, and to  
8 documents and papers pertaining to official acts, transactions or decisions, as well as to  
9 government research data used as basis for policy development, except for such information  
10 which may jeopardize the privacy of individuals, national security, public order and safety,  
11 foreign diplomatic and economic relations, and trade secrets of private entities,

12 SEC 3. *Definition of Terms.* As used in this Act"...

- 1 (a) "Government body" shall mean any *Executive, Legislative, Judicial or*  
2 *Constitutional body of the Government of the Republic of the Philippines,*  
3 *including local government units, the Armed Forces of the Philippines and the*  
4 *Philippine National Police, government financial institutions and government-*  
5 *owned and controlled corporations, whether created by its own charter or by*  
6 *registration with the Securities and Exchange Commission (SEC), and all such*  
7 *other entities where the government has substantial interest in.*
- 8 (b) "Information" shall mean all documents, papers, letters, minutes and  
9 transcripts of official meetings, maps, books, photographs, films, sound and  
10 video recordings, magnetic or other tapes, electronic data processing records,  
11 computer stored data, electronic mail messages, or any other like or similar  
12 data or material, recorded, stored or archived in whatever form or format,  
13 which are made, received or kept in or under the control and custody of any  
14 government body pursuant to law, executive order, rules and regulation,  
15 ordinance or in connection with the performance or transaction of official  
16 business by any government body.
- 17 (c) "Requesting person" shall mean a natural person, whether on his own or as a  
18 representative of another natural person or a juridical person, who makes a  
19 request to obtain, have a copy of or have access to information from any  
20 government body as defined in this Section.
- 21 (d) "Trade secret" shall mean any information, including a formula, pattern,  
22 compilation, program, device, product, method, technique or process, that is  
23 used, or may be used, in business or for any commercial advantage; derives  
24 independent economic value, actual or potential, from not being generally  
25 known to the public or to persons who can obtain economic value from its

1 disclosure or use; is the subject of reasonable efforts to prevent it from  
2 becoming generally known, and the disclosure of which would result in harm  
3 or improper benefit.

4 *SEC 4. Coverage and Limitations.* All information, as herein defined, which are in the  
5 custody or under the control of a government body shall be made accessible and available for  
6 public scrutiny, copying and reproduction, except when:

7 (a) The information pertains to personal information on a third party natural  
8 person, but only when its revelation would constitute an unwarranted  
9 invasion of personal privacy, including, but not limited to, records or  
10 information subject to attorney-client or doctor-patient relationship;

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

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

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

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

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

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

9 (ii) Would deprive a person of a right to a fair trial or an impartial  
10 adjudication;

11 (iii) Could reasonably be expected to constitute an unwarranted invasion of  
12 personal privacy;

13 (iv) Could reasonably be expected to disclose the identity of a confidential  
14 source, including a foreign agency or authority, or any private  
15 institution which furnished information on a confidential basis, or the  
16 information furnished by a confidential source;

17 (v) Would disclose techniques and procedures for law enforcement  
18 investigations or prosecutions, or would disclose guidelines for law  
19 enforcement investigations or prosecutions;

20 (vi) Could reasonably be expected to endanger the life or physical safety of  
21 any individual, harm the security of any property or system, including  
22 a building; or

23 (vii) Could harm the security of any property or system, including, but not  
24 limited to, a building, vehicle, computer or communications system:

1           *Provided, however,* that records or information relating to the administration,  
2 management and direction of a law enforcement agency shall be public.

3           (d) The information is maintained by the Department of Foreign Affairs and other  
4 relevant government bodies on another sovereign state, and the disclosure of  
5 such records or information could reasonably be expected to jeopardize the  
6 diplomatic relations of the Government of the Republic of the Philippines  
7 with the said sovereign state: *Provided,* that treaties, trade agreements,  
8 contracts between agencies and/or government-owned and controlled  
9 corporations, and implementing agreements, annexes, side letters and other  
10 such documents and records pertaining to or related to the same, and any  
11 other documents pertaining to dealings entered into by, the Government of  
12 the Republic of the Philippines with another sovereign State and binds the  
13 Government to uphold such transactions under international and local law,  
14 shall not be covered by this exception;

15           (e) The information pertains to trade secrets and commercial or financial  
16 information obtained from a person, firm, or corporation which is of a  
17 privileged or confidential nature; or

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

22           In cases where access is requested to a record or information that is exempt from  
23 disclosure pursuant to this Act, the public shall have the right of access to the remainder of  
24 the record: *Provided,* that the exempt portion of the record can be reasonably separated,  
25 severed, deleted or concealed from the record.

1 Nothing in this Act shall, however:

- 2 (a) authorize the withholding of information from, or limit the availability of  
3 records to, Congress or any of its committees;
- 4 (b) affect the power of any court, tribunal, investigative body, or any government  
5 body exercising quasi-judicial functions to compel a witness to testify or to  
6 compel the production of documents;
- 7 (c) limit the information otherwise available by law to a party to litigation  
8 including a civil, criminal or administrative proceeding;
- 9 (d) prohibit the transfer, storage or destruction of any record pursuant to law,  
10 decree, order, ordinance or rules and regulations;
- 11 (e) prevent access to records maintained in a public office for the purpose of  
12 providing the public access to information; or
- 13 (f) restrict disclosure of information for the purpose of an investigation or  
14 prosecution of a criminal case or a case of graft and corruption.

15 **SEC 5. Procedure for Access.** Any person who seeks to obtain, have a copy of or have  
16 access to any information shall file a request to the government body concerned, as much as  
17 practicable in writing, reasonably describing the information being sought, and stating  
18 details on how he could be contacted by the said government body.

19 The government body where shall comply with the said request within two (2)  
20 working days after the receipt of the request, or within a reasonable period of time mutually  
21 agreed upon by the requesting person and the government body's employee concerned.

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

- 1           (a)    The requesting person failed to give enough details about the information or  
2                    record sought to be obtained.
- 3           (b)    A large number of records is sought to be obtained in a single request, or when  
4                    it has received voluminous requests, that compliance within the prescribed  
5                    period under this Act would unreasonably interfere with its operations;
- 6           (c)    The request requires search and collation of records from its field offices;
- 7           (d)    Additional time is needed to consult with another government body having  
8                    material or substantial interest in the determination of the request; and
- 9           (e)    There are fortuitous events or other events from force majeure, or other  
10                  analogous cases.

11           SEC 6. *Payment of Reasonable Fees.* Copies or reproductions of information, whether  
12           in print or electronic media, may be obtained by the requesting person whose request has  
13           been approved upon payment of a reasonable fee which shall not exceed the actual cost of  
14           reproduction plus a reasonable margin not exceeding ten percent (10%): *Provided*, that  
15           proceeds from the reproduction fees charged shall be used exclusively for the purchase and  
16           maintenance of equipment and supplies required to produce copies or reproductions of the  
17           said records.

18           Upon request, the government body shall provide a detailed itemization of the costs  
19           charged for the reproduction. No government body may, however, require the advanced  
20           payment of any reproduction fee.

21           SEC 7. *Transfer of Request.* If the government body to which the request was filed  
22           determines that the information being sought is not in its custody or control, it shall, within  
23           two (2) days, notify the requesting person of the same, through writing or other contact



1 channels that the requesting person has provided, and shall then either: 1) transmit the said  
2 request to the government body which has the possession or custody of the information  
3 being sought; or 2) provide the requesting person with a referral letter, signed by its head  
4 and addressed to the head of the government body which has the possession or custody of  
5 the information being sought.

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

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

12 **SEC 9. *Remedies to Compel Disclosure.*** Every denial of any request for access to  
13 information may be appealed before the Office of the Ombudsman by filing, within fifteen  
14 (15) days from receipt of a letter of denial, a prayer for the disclosure of the information  
15 being sought.

16 If the Office of the Ombudsman upholds such denial or fails to act on such prayer  
17 within sixty (60) days, the requesting person may then file a verified petition for mandamus  
18 before the Regional Trial Court with jurisdiction over the government body's office receiving  
19 the request for information. The court shall then proceed, and appeal shall be available,  
20 following the procedure for a petition for mandamus and appeal under the Rules of Court.

21 Nothing in this Section shall prejudice any other available administrative, civil or  
22 criminal remedy.

1           SEC 10. *Mandatory Disclosure of Information on Governance.* Each government body  
2 shall readily disseminate to the public and regularly update information on including, but  
3 not limited to, the following:

- 4           (a) A description of its mandate, powers and functions, and the source of such,  
5                 whether through the Constitution, law, executive fiat or SEC registration;
- 6           (b) *A description of its organizational structure, functions and responsibilities of*  
7                 its divisions and key positions, and decision-making processes;
- 8           (c) A description if its key officials, their powers, functions and responsibilities,  
9                 and their profiles and curriculum vitae;
- 10          (d) A description of the frontline services it delivers and the procedure and length  
11                 of time by which these services may be availed of;
- 12          (e) Work programs, projects and performance targets and accomplishments;
- 13          (f) Important rules and regulations, orders, or decisions;
- 14          (g) Current and important databases and statistics that it generates;
- 15          (h) *Mechanisms or procedures by which the public may participate in or*  
16                 otherwise influence the formulation of policy or the exercise of its powers;
- 17          (i) A description of its record-keeping system, the types of information it holds  
18                 and/or publishes, and the procedure for obtaining access by the public to such  
19                 information;
- 20          (j) Bidding processes, requirements, and details of contracts it has entered or  
21                 plans to enter into; and
- 22          (k) The addresses, contact details and other descriptions of its central and field  
23                 offices from which, personnel from whom, and the methods whereby the  
24                 public may make requests and obtain public information.

1           The means of disclosure and dissemination of such information shall include, but not  
2 be limited to: 1) manuals, pamphlets, brochures, bulletins, posters, announcements, or any  
3 other printed collaterals, for distribution or for posting by the government body concerned  
4 in conspicuous places in its central and field offices; and 3) electronically uploading of such  
5 information on its website.

6           **SEC 11. *Mandatory Disclosure for Public Interest.*** Any government body which is in  
7 possession or has knowledge of any information, not otherwise declared classified or exempt  
8 pursuant to this act, about the existence of a risk of significant harm to the health and safety  
9 of the public, the environment, or which clearly affects public interest shall without delay  
10 disclose such information to the public.

11           **SEC 12. *Penal Provisions.*** Any official or employee of the government found guilty by  
12 final judgment of the proper court of denying access to information, or parts thereof, without  
13 a valid legal ground as provided for in this Act, or who shall knowingly release false and/or  
14 misleading information, shall be punished with a fine of not less than Fifteen Thousand  
15 Pesos (P15,000.00) but not more than Thirty Thousand Pesos (P30,000.00), and/or  
16 imprisonment of not less than one (1) year but not more than three (3) years, including all  
17 the accessory penalties provided by law, at the discretion of the court.

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

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

6           **SEC 13. *Implementing Guidelines.*** Each government body shall, within sixty (60) days  
7 from the effectivity of this Act, promulgate guidelines specifying the office, and employees  
8 from whom, and the methods and process whereby, the public may request access to or  
9 obtain information which are kept in or held under its custody or control.

10           **SEC 14. *Reports.*** On or before March 1 of each calendar year, each government body  
11 shall submit a report covering the preceding year to the Speaker of the House of  
12 Representatives and President of the Senate for referral to the appropriate committees of  
13 Congress. The report shall include:

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

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

19           (c)    The number of determinations made by such government body to refuse the  
20                   requests for information made to such government body under Section 8, the  
21                   reasons for such determination;

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

- 1 (e) The number of refused requests wherein the requesting person sought  
2 remedies before the Office of the Ombudsman or before the regular courts,  
3 and the names and titles or positions of officials concerned in these cases;
- 4 (f) A copy of the information disclosed by the government body pursuant to  
5 Section 10 of this act, including a description of the collaterals, whether print  
6 or electronic, used in the dissemination of the said disclosed information.
- 7 (g) A summary of other initiatives made by the government body, whether or not  
8 mandated by this Act or any other law, that sought to enhance and assist the  
9 implementation of this Act; and
- 10 (h) Such other information which the government body deems as necessary to  
11 disclose in relation to the implementation of this Act.

12 The Office of the Ombudsman shall submit an annual report on or before March 1 of  
13 each calendar year, listing the number of cases filed before it under Section 9 of this Act and  
14 the disposition of each case. The Solicitor General shall likewise submit an annual report on  
15 or before March 1 of each calendar year, listing the number of cases filed before the regular  
16 courts under Section 9 of this Act, the disposition of each case, the names and positions or  
17 titles of the officials penalized and the penalties assessed.

18 **SEC 15. *Separability Clause.*** If for any reason, any part, section or provision of this  
19 Act shall be held unconstitutional or invalid, no other part, section or provision shall be  
20 affected thereby.

21 **SEC 16. *Repealing Clause.*** All laws, decrees, executive orders, rules and regulations,  
22 issuances or any parts thereof inconsistent with the provisions of this Act are deemed  
23 repealed or amended accordingly.

1           SEC 17. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its  
2 publication in at least two (2) national newspapers of general circulation.

Approved,