



HOUSE OF REPRESENTATIVES

H. No. 3732

BY REPRESENTATIVES ANGARA, DEL MAR, VILLANUEVA, CRUZ-GONZALES, ABAYA, TALIÑO-MENDOZA, TAÑADA, DE GUZMAN, GONZALES (A.), OCAMPO, CASIÑO, PABLO, HONTIVEROS-BARAQUEL, COQUILLA, FUA, TEODORO, CHATTO, MAZA, BELTRAN, ILAGAN, ABANTE, CODILLA, DAZA, ALCALA, BIAZON, UMALI (A.), CUA (J.), UY (R.A.), DEL ROSARIO, PINGOY, LAGMAN, OLAÑO, CAJAYON, JOSON, SOON-RUIZ, GARAY, SANDOVAL, MANDANAS, HATAMAN, ABLAN, AGBAYANI, AGGABAO, AGYAO, ALFELOR, ALMARIO, ALVAREZ (A.), AMATONG, ANGPING, APOSTOL, AQUINO, ARAGO, ARENAS, ARNAIZ, ARROYO (D.), ARROYO (I.), ASILO, BAGATSING, BALINDONG, BARZAGA, BINAY, BIRON, BONDOC, BONOAN-DAVID, BRIONES, BULUT, CABILAO, CAGAS, CASTELO DAZA, CASTRO, CAYETANO, CELESTE, CERILLES, CHIPECO, CHONG, CLARETE, CLIMACO, COSCOLLUELA, CRISOLOGO, CUA (G.), CUENCO, DATUMANONG, DEFENSOR (A.), DEFENSOR (M.), DIAZ, DILANGALEN, DIMAPORO, DOMOGAN, DUAVIT, DUMARPA, DURANO, DY, ENVERGA, ESCUDERO, ESTRELLA (C.), FABIAN, FERNANDEZ, FERRER, FUENTEBELLA, GARCIA (A.), GARCIA (P.), GARCIA (V.), GARIN, GATCHALIAN, GATLABAYAN, GO, GOLEZ, GONZALES (N.), GONZALEZ, GULLAS, GUNIGUNDO, HOFER, JAAFAR, JALA, JAVIER, JIKIRI, KHO, LACSON, LAGDAMEO, LAPUS, LIM, LOPEZ, MADRONA, MAGSAYSAY, MAMBA, MANGUDADATU, MARAÑON, MARCOS, MATUGAS, MERCADO, MITRA, NAVA, NICOLAS, NOEL, NOGRALES, ONG, ORTEGA, PADILLA, PANCHO, PANCRUDO, PICHAY, PIÑOL, PLAZA, PRIETO-TEODORO, PUNO, RAMIRO, REMULLA, REYES (V.), ROBES, RODRIGUEZ, RODRIGUEZ-ZALDARRIAGA, ROMAN, ROMARATE, ROMUALDEZ, ROMULO, SALVACION, SANTIAGO (J.), SANTIAGO (N.), SILVERIO, SINGSON (E.), SINGSON (R.), SUAREZ, SUSANO, SY-LIMKAICHONG, TEVES, TIENG, TUPAS, UNGAB, UY (E.), UY (R.S.),

VARGAS, VELARDE, VILLAFUERTE, VILLAROSA, VINZONS-CHATO,
VIOLAGO, YAP, YU, ZAMORA (M.), ZAMORA (R.), ZIALCITA AND
ZUBIRI, PER COMMITTEE REPORT NO. 331

AN ACT IMPLEMENTING THE RIGHT OF ACCESS TO INFORMATION
ON MATTERS OF PUBLIC CONCERN GUARANTEED UNDER
SECTION TWENTY-EIGHT, ARTICLE II AND SECTION SEVEN,
ARTICLE III OF THE 1987 CONSTITUTION AND FOR OTHER
PURPOSES

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

1 SECTION 1. *Title.* – This Act shall be known as the “Freedom of
2 Information Act of 2008”.

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

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

12 SEC. 4. *Definition of Terms.* – As used in this Act:

13 (a) “Information” shall mean any knowledge, record, document, paper,
14 report, letters, contract, minutes and transcripts of official meetings, maps,
15 books, photographs, data, research material, film, sound and video recordings,
16 magnetic or other tapes, electronic data processing records, computer stored
17 data, or any other like or similar data or material recorded, stored or archived
18 in whatever form or format, which are made, received or kept in or under the

1 control and custody of any government agency pursuant to law, executive
2 order, rules and regulations, ordinance or in connection with the performance
3 or transaction of official business by any government agency.

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

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

19 (d) "Public records" shall include information required by law to be
20 entered, kept and made publicly available by a government agency such as, but
21 not limited to, the:

- 22 (1) Office of the Civil Registry;
- 23 (2) National Statistics Office;
- 24 (3) Register of Deeds;
- 25 (4) Land Transportation Office;
- 26 (5) Land Transportation Franchising and Regulatory Board;
- 27 (6) Securities and Exchange Commission;
- 28 (7) Intellectual Property Office; or

1 (8) Business Permits and Licenses Office and Assessor's Office of the
2 various local government units.

3 SEC. 5. *Presumption.* -- There shall be a legal presumption in favor of
4 access to information. Accordingly, government agencies shall have the burden
5 of proof of showing by clear and convincing evidence that the information
6 requested should not be disclosed.

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

13 SEC. 7. *Qualifications.* -- Even if the information falls under the
14 exceptions set forth in the succeeding section, access to information shall not
15 be denied if:

16 (a) The information may be reasonably severed from the body of the
17 information which would be subject to the exceptions; or

18 (b) The public interest in the disclosure outweighs the harm to the
19 interest sought to be protected by the exceptions.

20 SEC. 8. *Exceptions.* -- Subject to the qualifications set forth in
21 Section 7: *Provided,* That the information is specifically designated and
22 described, and the facts and reasons for preserving the confidentiality are
23 precisely and specifically recited, and: *Provided, further,* That such
24 information shall be available to either House of Congress at all times, access
25 to information may be denied when:

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

1 Defense: *Provided*, That the Supreme Court may, upon complaint by any
2 citizen, inquire into the sufficiency of the factual basis for such determination;

3 (b) The information pertains to the foreign affairs of the Republic of
4 the Philippines, when its revelation would unduly weaken the negotiating
5 position of the government in an ongoing bilateral or multilateral negotiation
6 or seriously jeopardize the diplomatic relations of the Philippines with one or
7 *more states with which it intends to keep friendly relations*, except that such
8 information must always be accessible to either House of Congress;

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

17 (d) The information pertains to the personal information of a third party
18 natural person, unless it forms part of a public record, or the third party is or
19 was an official of a government agency and the information relates to his or her
20 public function;

21 (e) The information pertains to trade, industrial, financial or
22 *commercial secrets of a third party natural or juridical person, obtained in*
23 *confidence by a government agency whenever the revelation thereof would*
24 *seriously prejudice the interests of the third party in trade, industrial, financial*
25 *or commercial competition, unless the third party has consented to the*
26 *disclosure of the information;*

1 (f) The information is privileged from production in legal proceedings
2 by law or by the Rules of Court, unless the person entitled to the privilege has
3 waived it;

4 (g) The information is exempted by statutes of Congress, in addition to
5 those provided in this section;

6 (h) The information is obtained by any committee of either House of
7 Congress in executive session; and

8 (i) Drafts of decisions of any executive, administrative, judicial or
9 quasi-judicial body in the exercise of their adjudicatory functions are being
10 requested.

11 SEC. 9. *Procedure of Access.* – (a) Any person who wishes to obtain
12 information shall submit a request to the government agency concerned, as
13 much as practicable in writing or through electronic means, reasonably
14 describing the information required, the reason for the request of the
15 information and the means by which the government agency shall
16 communicate such information to the requesting party.

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

23 (c) The request may indicate the following preferred means of
24 communication:

25 (1) A true copy of the information in permanent or other form;

26 (2) An opportunity to inspect the information, using equipment
27 normally available to the government agency when necessary;

28 (3) An opportunity to copy the information using personal equipment;

1 (4) A written transcript of the information contained in a sound or
2 visual form;

3 (5) A transcript of the content of an information, in print, sound or
4 visual form, where such transcript is capable of being produced using
5 equipment normally available to the government agency; or

6 (6) A transcript of the information from shorthand or codified form.

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

11 (e) The government agency shall comply with such request within ten
12 (10) calendar days from the receipt thereof.

13 (f) The time limits prescribed in this section may be extended during
14 unusual circumstances where, in the production of the requested information,
15 there is a need:

16 (1) To search for and collect the requested information from field
17 facilities or other establishments that are separate from the office processing
18 the request;

19 (2) To search for, collect and appropriately examine a voluminous
20 amount of separate and distinct information which are demanded in a single
21 request;

22 (3) For consultation, which shall be conducted in all practicable speed,
23 with another government agency or among two (2) or more components of the
24 government agency having substantial interest in the determination of the
25 request; and

26 (4) To consider fortuitous events or other events due to *force majeure*
27 or other analogous cases.

1 (g) The government agency shall, in writing or through electronic
2 means, notify the person making the request of the extension, setting forth the
3 reasons for such extension and the date when the information shall be made
4 available: *Provided*, That no such notice shall specify a date that would result
5 in an extension of more than fifteen (15) calendar days.

6 SEC. 10. *Access Fees.* – Government agencies may charge a reasonable
7 fee to reimburse the cost of searching, reproduction, copying or transcription
8 and the communication of the information requested.

9 SEC. 11. *Notice of Denial.* – If the government agency decides to deny
10 the request, in whole or in part, it shall, within ten (10) calendar days from the
11 receipt of the request, notify the person making the request of such denial in
12 writing or through electronic means. The notice shall clearly indicate the name,
13 rank, title or position of the person making the denial, and the grounds for the
14 denial. In case the denial is by reason of a claimed exception, the denial shall
15 also state clearly the legitimate aim or interest sought to be protected in the
16 confidentiality, and the facts and circumstances invoked showing the
17 substantial harm to, or frustration of, the legitimate aim or interest that will
18 result in the disclosure of the information. Failure to notify the person making
19 the request of the denial, or of the extension, shall be deemed a denial of the
20 request for access to information.

21 SEC. 12. *Remedies in Cases of Denial.* – (a) In the executive and
22 legislative branches and the constitutional bodies –

23 (1) Every denial of any request for access to information may be
24 appealed to the person or office next higher in authority, following the
25 procedure provided in the guidelines as required by Section 17 of this Act:
26 *Provided*, That the appeal must be filed within fifteen (15) calendar days from
27 the notice of denial and must be decided within fifteen (15) calendar days from

1 filing. Failure of the government agency to decide within the aforesated period
2 shall constitute a denial of the appeal; and

3 (2) Instead of appealing or after the denial of the appeal, the person
4 denied access to information may, within fifteen (15) calendar days from the
5 original denial or denial of the appeal, file a verified complaint with the Office
6 of the Ombudsman, praying that the government agency concerned be directed
7 to immediately afford access to the information being requested. Such
8 complaint shall be resolved by the Office of the Ombudsman within sixty (60)
9 calendar days from filing or earlier, when time is of the essence, taking into
10 account such factors as the nature of the information requested, context of the
11 request, public interest and danger that the information requested will become
12 moot.

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

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

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

21 (e) The Office of the Ombudsman shall promulgate its rules of
22 procedure to effect the purposes of this Act.

23 (f) Unless restrained or enjoined, the decisions of the Office of the
24 Ombudsman shall be immediately executory, without prejudice to review in
25 accordance with the Rules of Court.

26 (g) In case the requester has limited or no financial capacity, the Public
27 Attorney's Office shall be mandated to provide legal assistance to the requester
28 in availing of the remedies provided under this Act.

1 SEC. 13. *Mandatory Disclosure of Transactions Involving Public*
2 *Interest.* – Subject to Sections 7 and 8 of this Act, all government agencies
3 shall post on their bulletin boards and upload on their websites all the steps,
4 negotiations and key government positions pertaining to definite propositions
5 of the government, as well as the contents of the contract, agreement or treaty
6 in the following transactions involving public interest:

7 (a) Compromise agreements entered into by a government agency with
8 any person or entity involving any waiver or its rights or claims;

9 (b) Private sector participation agreements or contracts in infrastructure
10 and development projects under Republic Act No. 6957, as amended by
11 Republic Act No. 7718, authorizing the financing, construction, operation and
12 maintenance of infrastructure projects;

13 (c) Procurement contracts entered into by a government agency;

14 (d) Construction or concession agreements or contracts entered into by
15 a government agency with any domestic or foreign person or entity;

16 (e) Loans, grants, development assistance, technical assistance and
17 programs entered into by a government agency with official bilateral or
18 multilateral agencies, as well as with private aid agencies or institutions;

19 (f) Loans from domestic and foreign financial institutions;

20 (g) Guarantees given by any government agency to government-owned
21 or -controlled corporations and to private corporations, persons or entities;

22 (h) Public funding extended to any private entity;

23 (i) Bilateral or multilateral agreements and treaties in defense,
24 trade, economic partnership, investments, cooperation and similar binding
25 commitments; or

26 (j) Licenses, permits or agreements given by any government agency
27 to any person or entity for the extraction and/or utilization of natural resources.

1 SEC. 14. *Promotion of Openness in Government.* – (a) Duty to Publish
2 *Information* – Government agencies shall regularly publish and disseminate, at
3 no cost to the public and in an accessible form, by print and through their
4 website, timely, true, accurate and updated key information *including, but not*
5 *limited to:*

6 (1) A description of its structure, powers, functions, duties and
7 decision-making processes;

8 (2) A description of the frontline services it delivers and the procedure
9 and length of time by which they may be availed of;

10 (3) Work programs, development plans, investment plans, projects,
11 performance targets and accomplishments, and budgets, revenue allotments
12 and expenditures;

13 (4) Important rules and regulations, orders or decisions;

14 (5) Current and important database and statistics that it generates;

15 (6) Bidding processes and requirements;

16 (7) Mechanisms or procedures by which the public may participate in
17 or otherwise influence the formulation of policy or the exercise of its powers;
18 *and*

19 (8) A guide on accessing information containing adequate information
20 about its record-keeping system, the types of information it holds and/or
21 publishes, the procedure for obtaining access by the public to such information,
22 the person or office responsible for receiving the request and routing it to the
23 person or office with the duty to act on the request, the standard forms and
24 procedure for request, and the schedule of access fees.

25 (b) Keeping of Records – Government agencies shall maintain and
26 preserve their records in a manner that facilitates easy identification, retrieval
27 and communication to the public. They shall establish Management
28 Information Systems (MIS) to strengthen their capability to store, manage and

1 retrieve records, and to facilitate access to public records. The following shall
2 not be destroyed:

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

5 (2) Records of government contracts;

6 (3) The declaration under oath of the assets, liabilities and networth of
7 public officers and employees, as required by law;

8 (4) Records of official investigations on graft and corrupt practices of
9 public officers; and

10 (5) Other records where there is a significant public interest in their
11 preservation or where there is likely to be such interest in the future.

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

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

20 SEC. 15. *Criminal Liability*. -- The penalty of imprisonment of not less
21 than six (6) months but not more than one (1) year, with the accessory penalty
22 of suspension from office for the same duration, shall be imposed upon:

23 (a) Any public officer or employee receiving the request under Section
24 9 of this Act who shall knowingly refuse or, because of gross negligence, fail
25 to promptly forward the request to the public officer responsible for officially
26 acting on the request when such is the direct cause of the failure to disclose the
27 information within the periods required by this Act;

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

3 (1) Knowingly refuse or, because of gross negligence, fail to act on the
4 request within the periods required by this Act;

5 (2) Knowingly deny the existence of existing information;

6 (3) Deliberately destroy information being requested for the purpose of
7 frustrating the requester's access thereto;

8 (4) Claim an exception under Section 8 of this Act, when the claim is
9 manifestly devoid of factual basis; or

10 (5) Refuse to comply with the decision of his immediate supervisor, the
11 Ombudsman or the court ordering the release of information that is not
12 *restrained or enjoined by a court*;

13 (c) The head of office of the government agency directly and
14 principally responsible for the negotiation and perfection of any of the
15 transactions enumerated in Section 13 of this Act, who shall knowingly refuse
16 or, because of negligence, fails to direct the mandatory posting or uploading of
17 such transaction. The same penalty shall be imposed upon the public officer or
18 employee who, despite a directive from the head of office, shall knowingly
19 refuse or, because of negligence, fails to post or upload any of the transactions
20 enumerated in Section 14 of this Act;

21 (d) Any public officer or employee who shall destroy, or cause to
22 destroy, records of information covered by Section 14(b) of this Act;

23 (e) Any public officer who intentionally formulates policies, rules and
24 regulations manifestly contrary to the provisions of this Act, and which
25 policies, rules and regulations are the direct cause of the denial of a request for
26 information; or

27 (f) Any public or private individual who knowingly induced or caused
28 the commission of the foregoing acts under this section.

1 SEC. 16. *Strict Civil Liability.* – In case a request for information is
2 denied and subsequently reversed by final and executory judgment of the
3 Ombudsman or the courts, the government agency shall be liable to pay the
4 requester damages in the amount of One thousand pesos (P1,000.00) per day
5 from the date of notice of denial until the date of compliance with the request,
6 which amount shall be automatically appropriated. The public officer or
7 employee and the private individual responsible for the denial shall be
8 solidarily liable with the government agency, unless he can prove that such
9 denial was made without fault or negligence, or was not done arbitrarily or in
10 manifest bad faith. The liability under this section shall be without prejudice to
11 actual, moral and exemplary damages that may be adjudicated under the law.

12 SEC. 17. *Guidelines.* – (a) For the full implementation of this Act
13 within the executive branch of the government, the Office of the Press
14 Secretary, particularly the Philippine Information Agency, shall, through a
15 consultative process, promulgate within six (6) months from the passage of this
16 Act, the general guidelines to which the government agencies controlled,
17 supervised or situated under the Office of the President, and shall adhere in the
18 establishment of their specific guidelines for access to information, which shall
19 include:

20 (1) The location of the head, regional, provincial or field offices, or
21 other established places where the public can obtain information or submit
22 requests therefor;

23 (2) The types of information it holds and/or publishes;

24 (3) The person or office responsible for receiving the request and for
25 routing it to the person or office with the duty to act on the request, and the
26 standard forms and procedures for the request;

27 (4) The procedure for the administrative appeal of any denial for access
28 to information; and

1 (5) *The schedule of fees which shall be limited to the reasonable and*
2 *standard charges for document search and reproduction, and the recovery of*
3 *the direct costs thereof.*

4 Each of the abovementioned government agency, office and
5 instrumentality shall submit to the Philippine Information Agency a copy of its
6 guidelines for review to ensure the standardization of the procedure and the
7 uniformity of fees, without prejudice to the right of the different agencies,
8 offices and instrumentalities to adopt appropriate procedures for their unique
9 functions and responsibilities.

10 (b) The legislative and judicial branches and the constitutional bodies
11 shall promulgate their own guidelines that would govern offices under their
12 respective jurisdictions. The Secretary of the Senate, the House of
13 Representatives' Secretary General, the head of the Supreme Court Public
14 Information Office and the public information officers of the constitutional
15 bodies shall be responsible in furnishing copies of their respective guidelines
16 to the Philippine Information Agency.

17 (c) The Office of the Ombudsman shall likewise promulgate its special
18 rules of procedure for the immediate disposition of complaints filed pursuant to
19 Section 12 of this Act.

20 In no case shall the absence of the aforementioned guidelines be a
21 reason for the denial of any request for information made in accordance with
22 this Act.

23 SEC. 18. *Act Not a Bar to Claim of Right to Information Under the*
24 *Constitution.* – No provision of this Act shall be interpreted as a bar to any
25 claim of denial of the right to information under Article III, Section 7 of the
26 1987 Constitution.

1 SEC. 19. *Separability Clause.* – If, for any reason, any section or
2 provision of this Act is held unconstitutional or invalid, no other section or
3 provision shall be affected.

4 SEC. 20. *Repealing Clause.* – All laws, decrees, executive orders, rules
5 and regulations, issuances or any part thereof inconsistent with the provisions
6 of this Act, including Memorandum Circular No. 78 dated 14 August 1964
7 (Promulgating Rules Governing Security of Classified Matter in Government
8 Offices), as amended, and Section 3, Rule IV of the Rules Implementing
9 Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public
10 Officials and Employees), are deemed repealed.

11 SEC. 21. *Effectivity.* – This Act shall take effect fifteen (15) days after
12 its publication in at least two (2) national newspapers of general circulation.

Approved,

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