

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

HOUSE BILL NO. 237



Introduced by Representative Jorge T. Almonte

EXPLANATORY NOTE


The proposed law strengthens the constitutional provision on the right of the people to information on matters of public concern (Sec 7, Art III, Bill of Rights of the Constitution), and implements the policy of full public disclosure of all government transactions involving public interest as espoused under Section 28 Article II of the Constitution. But as rights are not absolute, the bill also provides a list of exceptions that carefully balances the right to information with other legitimate and reasonable competing rights of individuals (such as privacy) as well as of the state. Equally important, it also lays down the parameters and mechanisms for the citizens' access to information in all government offices.

The Freedom of Information measure has been in the Philippine Congress since the 8th Congress in 1987, ahead of many countries in Asia. Since then, all the succeeding congresses have considered FOI proposals and reaching the various stages of the legislative process.

This is a refiled bill of House Bill No. 5801, contained in Committee Report No. 746 as reported out by the Committee on Public Information in the 16th Congress. HB 5801 was the consolidated version of bills introduced and/or co-authored by Honorable Raul V. Del Mar, Marcelino R. Teodoro, Teddy Brawner Baguilat Jr., Kaka J. Bag-ao, Leah Samaco-Paquiz, Rodolfo G. Biazon, Sherwin N. Tugna, Winston "Winnie" Castelo, Deogracias B. Ramos, Jr., Estrellita B. Suansing, Salvio B. Fortuno, Magnolia C. Antonino, Ibarra M. Gutierrez III, Walden F. Bello, Karlo Alexei B. Nograles, Diosdado Macapagal Arroyo, Gloria Macapagal-Arroyo, Cresente M. Paez, Anthony M. Bravo, Gus S. Tambunting, Xavier Jesus "XJ" D. Romualdo, Emmeline Y. Aglipay-Villar, Jose Christopher Y. Belmonte, Maria Leonor Gerona-Robredo, Henedina R. Abad, Cinchona Cruz-Gonzales, Sol Aragones, Nicasio M. Aliping, Jr., Juan Johnny R. Revilla, Juliette T. Uy, Ronaldo B. Zamora, Christopher S. Co, Rodel M. Batocabe, Ma. Victoria R. Sy-Alvarado, Lorna Q. Velasco, Amado S. Bagatsing, Noel L. Villanueva, Juliet R. Cortuna, Lawrence Lemuel H. Fortun, Frederick F. Abueg, Erlpe John M. Amante, Rodrigo A. Abellanos, Jose I. Tejada, Erlinda M. Santiago, Edcel "Grex" B. Lagman, Erico Aristotle C. Aumentado, Angelina DL. Tan, M.D., Arthur C. Yap, Gerald Anthony V. Gullas, Jr., Henry S. Oaminal, Rose Marie J. Arenas, Gary C. Alejano, Emi G. Calixto-Rubiano, Lilia Macrohon-Nuño, Rolando A. Uy, Benjamin D. Asilo, Sitti Djalila A. Turabin-Hataman, Marilyn L. Primicias-Agabas, Nancy A. Catamco, Lino S.

Cayetano, Abigail Faye C. Ferriol-Pascual, Eric L. Olivarez, Anthony G. Del Rosario, Maria Lourdes Acosta-Alba, Jorge T. Almonte and Sherwin T. Gatchalian.

Approved,

A handwritten signature in dark ink, appearing to read 'Jorge T. Almonte', with a stylized flourish at the end.

JORGE T. ALMONTE

Representative, 1st District Misamis Occidental

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 237

Introduced by **REPRESENTATIVE JORGE T. ALMONTE**

AN ACT
STRENGTHENING THE RIGHT OF CITIZENS TO
INFORMATION HELD BY THE GOVERNMENT

Be it enacted by the Senate and 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. This right is indispensable to the exercise of the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making.

SEC. 3. *Coverage.* – This Act shall cover all government agencies, to refer to the executive, legislative, and judicial branches as well as the constitutional bodies of the Republic of the Philippines, including the national government and all its agencies, departments, bureaus, offices and instrumentalities, constitutional commissions and constitutionally mandated bodies, local governments and all their agencies, regulatory agencies, chartered institutions, government-owned or –controlled corporations, including wholly-owned or controlled subsidiaries, government financial institutions, state universities and colleges, the Armed Forces of the Philippines, the Philippine National Police, all offices in the Congress of the Philippines including the offices of Senators and Representatives, the Supreme Court and all lower courts established by law.

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

- (a) **Dataset** refers to an organized collection of data in a variety of forms, including tabular, geospatial, or image data files.

(b) **Information** refers to data that have been processed into a record, document, paper, report, letter, contract, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, in whatever form, or films, audio and video recordings, magnetic or other tapes, electronic data, in whatever format, which are made, received or kept in or under the control and custody of any government agency pursuant to law, executive order, rules and regulations, ordinance, or in connection with the performance or transaction of official business by any government agency.

(c) **Machine-readable** refers to formats that allow data to be extracted and processed by computer programs.

(d) **Official record** refers to information produced or received by a public officer or employee, or by a government agency in an official capacity or pursuant to a public function or duty. This shall not refer to the stage or status of the information.

(e) **Open format** refers to one that is platform independent, machine readable, and made available to the public without restrictions that would impede the re-use of that information.

(f) **Public record** refers to information required by law, executive orders, rules, or regulations to be entered, kept, and made publicly available by a government agency.

SEC. 5. Access to Information. – Every person who is a Filipino citizen has a right to and shall, on request, be given access to any record under the control of a government agency. Government agencies and public officials shall have the duty to disclose and make available for scrutiny, copying, and reproduction in the manner provided by this Act, all information pertaining to official acts, transactions, or decisions as well as government research data used as a basis for policy development, subject to the exceptions enumerated under Section 7 of this Act, regardless of their physical form or format in which they are contained and by whom they were made.

Nothing herein contained shall allow private acts, transactions or records of public officials and private individuals to be the subject of mandatory disclosure under this Act: *Provided, however,* That income tax returns, and statement of assets, liabilities and networth (SALN) of public officials shall be released subject to existing laws, rules and regulations: *Provided, further,* That the limitations and prohibitions to make available to the public the SALN shall not apply when, upon order of the Sandiganbayan, it has been established that there is probable cause related to the commission of an offense.

SEC. 6. *Presumption.* – There shall be a legal presumption in favor of access to information. The request for information may be denied only if it clearly falls under the exceptions provided under this Act. Accordingly, government agencies shall have the burden of proving that the information requested is exempted from disclosure.

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

- (a) the information is specifically authorized to be kept secret under guidelines established by an executive order, and properly classified pursuant thereto: *Provided*, That 1) The information directly relates to national security or defense and its revelation may cause grave damage to the national security or internal and external defense of the State; or 2) The information requested pertains to the foreign affairs of the Republic of the Philippines, when its revelation shall unduly weaken the negotiating position of the government in an ongoing bilateral or multilateral negotiation or seriously jeopardize the diplomatic relations of the Philippines with one or more States: *Provided further*, That the executive order shall specify the reasonable period after which the information shall be automatically declassified or be subject to mandatory declassification review, and that any reasonable doubt as to classification and declassification shall be settled in favor of the right to information;
- (b) the information consists of records of minutes and advice given and opinions expressed during decision-making or policy formulation, invoked by the Chief Executive to be privileged by reason of the impairment of the Chief Executive's deliberative process that would result from the disclosure thereof. Once policy has been formulated and decisions made, minutes and research data may be made available for disclosure unless they were made in executive session;
- (c) the information requested pertains to internal and/or external defense, law enforcement, and border control, when the disclosure thereof would:
 - (i) unduly compromise or interfere with any legitimate military or law enforcement operation; or
 - (ii) unduly compromise or interfere with the prevention, detection or suppression of criminal activity, the effective implementation of immigration controls and border security; or
 - (iii) deprive a person of a right to a fair trial or an impartial adjudication; or
 - (iv) lead to the disclosure of the identity of a confidential source, including a government.

or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a law enforcement authority, in the course of an investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source; or

(v) disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) endanger the life or physical safety of any individual;

(d) the information requested consists of drafts of the following: orders, resolutions, decisions, memoranda or audit reports by any executive, administrative, regulatory, constitutional, judicial or quasi-judicial body in the exercise of their adjudicatory and/or audit function;

(e) the information requested is obtained by any committee of either House of Congress in executive session;

(f) the information requested pertains to personal information of a natural person, whether from the public or the private sector, and its disclosure would constitute an unwarranted invasion of personal privacy. This may include signatures, addresses, telephone numbers, identification numbers, names of family members, race or ethnicity, religion, health, education, sexual orientation, and similar information, unless such information is specifically required by law to be entered into an official record and made available to the public, or the person has consented in writing to the disclosure of the information. To the extent required to prevent an unwarranted invasion of personal privacy, an agency may redact such information from a record made available to the public. However, the justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published;

(g) the information requested pertains to trade secrets and commercial or financial information or intellectual property obtained from a natural or juridical person other than the requesting party, whenever the revelation thereof would seriously prejudice the interests of such natural or juridical person in trade, industrial, financial or commercial competition;

- (h) the information is classified as privileged communications in legal proceedings by law or by the Rules of Court, unless the person entitled to the privilege has waived it;
- (i) the information requested is exempted by law or the Constitution, in addition to those provided in this section;
- (j) when prematurely disclosed, the information, would, in the case of a government agency that regulates or deals with the commodities markets, currencies, interest rates, securities, or financial institutions, likely lead to fraud, manipulation, or other unlawful acts or schemes involving currencies, interest rates, securities, or, in the case of other government agencies, likely frustrate the effective implementation of a proposed official action: *Provided*, That the information shall be accessible once the anticipated danger has ceased.
- (k) the information has already been made accessible as provided for in Section 12.

For paragraphs (c) to (k) of this section, the determination whether any of these grounds shall apply shall be the responsibility of the head of office of the government agency in custody or control of the information, or any responsible central or field officer/s duly designated by him.

SEC. 8. *Qualifications to the Exceptions.*

1. The exceptions in the preceding section shall be strictly construed;
2. The exceptions cannot be invoked to cover-up a crime, wrongdoing, graft, or corruption;
3. Whenever the information covered by an exception may be reasonably severed from a record, the record shall be released with the exempt information redacted, or the information not covered by the exception shall otherwise be communicated to the requesting party;
4. The President, the Supreme Court, the Senate, the House of Representatives, and the Constitutional Commissions may waive an exception with respect to information in the custody of offices under their respective supervision or control, when they deem that there is an overriding public interest in disclosure; and
5. The exceptions do not constitute authority to withhold information from Congress, nor authority for the executive branch of a local government unit to withhold information from the legislative body of such local government unit.

SEC. 9. *Mandatory Disclosure of Information.* – (a) In fulfillment of Article XI, Section 17 of the Constitution and subject to Section 5 and Section 7 (f) of this Act, the websites of their

respective offices shall provide to the public, the Statement of Assets, Liabilities, and Net worth (SALN) on an annual basis of the following national officials:

- (1) the President;
- (2) the Vice- President;
- (3) the Members of the Cabinet;
- (4) the Members of the Senate and the House of Representatives;
- (5) the Justices of the Supreme Court;
- (6) the Commissioners of the Constitutional Commissions and other constitutional offices;
and
- (7) the officers of the Armed Forces with the rank of general or the equivalent flag rank.

(b) All agencies of all branches of government shall publish in their websites and update on a monthly basis, a register containing the following information:

- (1) Freedom of Information Manual in full;
- (2) Rules of Procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
- (3) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency, including subsequent amendments;
- (4) Public interest documents or records, including:
 - (i) Annual Budget of Government Agencies
 - (ii) Itemized Monthly Collections and Disbursement
 - (iii) Summary of Income and Expenditures
 - (iv) Component of the Internal Revenue Allotment (IRA) Utilization
 - (v) Annual Procurement Plan and Procurement List
 - (vi) Items for Bidding
 - (vii) Bid Results on Civil Works, and Goods and Services
 - (viii) Abstract of Bids, as Calculated
 - (ix) Procurement contracts entered into by a government agency
 - (x) Construction or concession agreements or contracts entered into by a government agency with any domestic or foreign person or entity;

- (xi) Private sector participation agreements or contracts in infrastructure and development projects under Republic Act No. 6957, otherwise known as the Philippine BOT Law, as amended by Republic Act No. 7718;
- (xii) Public funding extended to any private entity;
- (xiii) Bilateral or multilateral agreements and treaties in trade, economic partnership, investments, cooperation and similar binding commitments;
- (xiv) List of persons or entities who were granted licenses, permits or agreements for the extraction and/or utilization of natural resources given by any government agency;
- (xv) Statement of Assets and Liabilities of the public officers of the government agency; and
- (xvi) Guarantees given by any government agency to government-owned or -controlled corporations and to private corporations, persons or entities.

The register shall contain a brief description of the transaction involved, including the nature and object of the transaction, the parties and amounts involved, the key steps undertaken towards its conclusion, and the relevant dates: *Provided*, That contracts and agreements involving an amount of at least Fifty Million Pesos (P50,000,000.00) shall be published in full in the website of the concerned government agency or the Official Gazette Online, subject to the succeeding section. A covered record shall be published in the website not later than thirty (30) working days from its perfection or issuance.

(c) All government agencies shall, over time, endeavor to build their capacity and practice to publish in full all other contracts, agreements, or treaties covered under this Section, specially those that are of the highest public interest by reason of the amounts involved and the impact of the transaction to the public. All government agencies must ensure that they have a compliant website within two (2) years from the effectivity of this Act.

(d) Should an agency lack the capacity to comply with the website publication requirement of this Section, the agency shall initiate a capacity-building program, coordinate with another appropriate agency, or use an alternative mechanism, to facilitate substantive compliance not later than three (3) years from the effectivity of this Act.

SEC. 10. *Promotion of Openness in Government.* – (a) Duty to Publish Information – In conjunction with Republic Act 9485, or the Anti-Red Tape Act of 2007, government agencies shall regularly publish, print and disseminate at no cost to the public, in an accessible form, and through

their website, timely, true, accurate and updated key information, including:

- (1) a description of its mandate, structure, powers, functions, duties and decision-making processes;
- (2) a description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- (3) the names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
- (4) work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
- (5) important rules and regulations, orders or decisions: *Provided*, That they be published within fifteen (15) calendar days from promulgation;
- (6) datasets generated in the implementation of agency mandates, programs, activities, and projects such as statistics, figures, and geospatial data;
- (7) current and important database and statistics that it generates;
- (8) bidding processes and requirements; and
- (9) mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

(b) Accessibility of Language and Form – Every government agency shall endeavor to translate key information into major Filipino languages and present them in popular form and means.

SEC. 11. *Capacity-Building, Promotion of Best Practices, and Continuous Updating of Appropriate Use of Information Technology.* – All government agencies shall establish, operate, and maintain a website with features that are compliant with all the provisions of this Act, within two (2) years from the effectivity of this Act.

Every government agency shall ensure the provision of adequate training for its officials and employees to improve awareness of the people's right to information on matters of public concern and the provisions of this Act. Similarly, all government agencies shall endeavor to study and adopt best practices in relation to information disclosure, records maintenance, and archiving.

The National Computer Center shall monitor all government agency websites and provide appropriate support for their development and ensure full compliance with the requirements of this Act.

SEC. 12. *Exemption from Compliance.* – The government agency shall be excused from complying with a subsequent identical or substantially similar request from the same requesting party where it has previously complied with a request for information unless a reasonable interval has lapsed between compliance with the previous request and the making of the current request: *Provided,* That the government agency, in denying the request, complies with Section 20 of this Act.

SEC. 13. *Additional Protection of Privacy.* – While providing for access to information in public records, this Act also affords full protection of the right to privacy of individuals, as follows:

(a) a government agency must ensure that personal information in its custody or under its control is disclosed only as permitted under this Act;

(b) a government agency must protect personal information in its custody or under its control by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure, or disposal;

(c) an employee, officer or director of a government agency who has access, whether authorized or unauthorized, to personal information in the custody of the agency, must not disclose that information except as authorized under this Act.

SEC. 14. *Administrative Liability.* – It shall be tantamount to gross neglect of duty and shall as a ground for administrative and disciplinary sanction against any public official or employee who willfully and knowingly commits the following acts:

(a) refusal to promptly forward the request under Section 18 of this Act to the public officer within the same office or agency responsible for officially acting on the request when such is the direct cause of the failure to disclose the information within the periods required by this Act;

(b) failure to act on the request within the periods required by this Act;

(c) claim an exception under Section 7 of this Act when the claim is manifestly devoid of factual or legal basis;

(d) refusal to comply with the decision of immediate supervisor, the Ombudsman, or of any court ordering the release of information;

(e) approval of policies, rules and regulations manifestly contrary to the provisions of this

Act, and which policies, rules and regulations are the direct cause of the denial of a request for information.

SEC. 15. *Criminal Liability.* – (a) The following acts shall be subject to the penalty of imprisonment of not less than one (1) month but not more than six (6) months, with the accessory penalty of dismissal from service:

(1) falsely denying or concealing the existence of information mandated for disclosure under this Act; and

(2) destroying, or causing to be destroyed, information and/or documents being requested under this Act, for the purpose of frustrating the requesting party's access thereto.

(b) Any private individual who knowingly induces or causes 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) The acts under paragraph (a) of this Section, if proven in an administrative proceeding, shall be subject to the penalty of dismissal, even if no criminal prosecution is instituted against the person found liable.

SEC 16. *Denial in Good Faith Not a Ground for Liability.* – A denial in good faith of a request for access to information made pursuant to the provisions of this Act shall not constitute grounds for administrative or criminal liability.

SEC. 17. *Freedom of Information (FOI) Manual.* – (a) For the effective implementation of this Act, all government agencies shall prepare a Freedom of Information (FOI) Manual, setting forth the following:

(1) the location and contact information of the head, regional, provincial and field offices of the agency, and other established places where the public can obtain information or submit requests;

(2) the types of information it generates, produces, holds and/or publishes;

(3) a description of its record-keeping system;

(4) the person or office responsible for receiving requests for information;

- (5) the procedure for the filing of requests personally, by mail, or through the identified electronic means;
- (6) the standard forms for the submission of request and for the proper acknowledgement of the request;
- (7) the process for the disposition of the request, including the routing of the request to the person or office with the duty to act on the request and the decision-making process for the grant or denial of the request;
- (8) the procedure for the administrative appeal of any denial for access to information;
- (9) the schedule of service or processing fees pertinent to a request for information;
- (10) the process and procedure for the mandatory disclosure of information under Section 9 of this Act: *Provided*, That, should the agency lack the capacity to comply with Section 9 of this Act, a brief description of its plan to facilitate compliance within three (3) years from the approval of this Act: and
- (11) such other information, taking into consideration the unique characteristics of the agency, that will help facilitate the effective implementation of this Act.

(b) The FOI Manual shall also be posted in the agency website and a hard copy shall be available at the agency reception area for use by the public:

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

(d) The heads of each of the departments and agencies may designate liaison units or committees which shall coordinate with the other units of the agency in implementing this Act. The composition, functions, and duties of these liaison units or committees shall be included in the FOI Manual.

SEC. 18. Procedure of Access. -- (a) Any person who wishes to obtain information shall submit, free of charge, a request to the government agency concerned personally, by mail, or through electronic means. A person who is unable, because of illiteracy or disability, to make a written request for information may make an oral request instead. The public officer who receives the oral request shall reduce it to writing, indicating therein one's name and position within the government agency, and give a copy thereof to the person who made the request. The request shall state the name and preferred contact information of the requesting party, and reasonably describe the information required, the reason for the request of the information and the preferred means by which the government agency shall communicate such information to the requesting party: *Provided*, That the stated reason shall not be used as a ground to deny the request or to refuse the acceptance of the

request, unless the request is contrary to law. If the request is submitted personally, the requesting party shall show a current identification document issued by any government agency, or government or private employer or school, or a community tax certificate. If the request is submitted by mail or through electronic means, the requesting party may submit a photostatic or electronically scanned copy of the identification, or other convenient means as determined by the agency.

(b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable all requesting parties and particularly those with special needs, to comply with the requirements under this Section.

(c) The request shall be duly received by the concerned government agency, which shall forthwith indicate the date and time of receipt and the name, rank, title and position of the receiving public officer or employee who shall likewise affix one's signature thereon, and shall furnish the requesting party a copy thereof. In case the request is submitted by electronic means, the government agency shall provide for an equivalent means by which the requirements of this paragraph shall be met. Each government agency shall establish a system by which the status of all requests for information received by it may be verified at any time.

(d) The request may indicate the requesting party's preferred mode and means of receiving the information requested, provided that the mode and means are reasonable, taking into consideration equipment normally available to the concerned government agency.

(e) A government agency may communicate the information requested in a form other than the preferred means whenever such preferred means would unreasonably interfere with the effective operation of the agency, or if the agency has no capability in communicating the information in the preferred format, or when the preferred format may be detrimental to the preservation of the record.

(f) The government agency shall comply with the request as soon as practicable and, in any case, within fifteen (15) working days from the receipt thereof. The period may be extended whenever the information requested requires a search of the government agency's field or satellite offices, examination of voluminous records, the occurrence of fortuitous events or other analogous cases.

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

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

(i) If the information is not held by the government agency from which the request was made, it shall notify the requesting party that it does not hold the information and indicate which agency holds the record, if known. Whenever practicable, the agency receiving the request may also cause the transfer of the request to the appropriate agency that holds the information: *Provided*, That the period to comply with the request under this Section shall begin to run only upon the receipt of the agency to which the request is transferred.

SEC. 19. *Access and Processing Fees.* – Government agencies may charge a reasonable fee to reimburse the actual cost of reproduction, copying or transcription, and the communication of the information requested. An agency may waive the fees whenever it is satisfied that the requester is an indigent, or that the cost of reproduction is negligible, or that it is pursuant to a program for proactive disclosure.

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

SEC. 21. *Remedies in Cases of Denial.* – (a) In all government agencies other than the judicial branch –

(1) A denial of a request for access to information may be appealed to the Head of Agency, following the procedure required under Section 17 (a) (8) of this Act: *Provided*, That the appeal must be filed within fifteen (15) calendar days from the receipt of the notice of denial and must be decided within fifteen (15) calendar days from filing. Failure to resolve the appeal within the aforementioned period shall constitute a denial of the appeal.

(2) A person denied access to information may file a verified complaint with the Office of the

Ombudsman, praying that the government agency concerned be directed to immediately afford access to the information being requested. The Office of the Ombudsman shall promulgate its special rules of procedure for the immediate disposition of complaints filed pursuant to this Section. Unless restrained or enjoined, the decision of the Office of the Ombudsman shall be immediately executory, without prejudice to review in accordance with the Rules of Court.

(3) A party whose request for information has been denied, whether or not such decision has been appealed to the head of an agency, may file a verified petition for mandamus in the proper court, alleging the facts with certainty and praying that judgment be rendered, ordering the respondent immediately or at some other time to be specified by the court, to disclose the information and to pay the damages sustained by the requesting party by reason of the denial. The procedure for such petition shall be summary in nature.

In resolving a complaint or petition brought under paragraphs (2) and (3) hereof, the Ombudsman or the court is empowered to receive the information subject of a claim of exception under Section 7 herein, and to examine them *in camera* to determine the sufficiency of the factual and legal basis of such claim, when the sufficiency cannot be reasonably determined through evidence and circumstances apart from the information.

(b) In the Judicial Branch – The Judiciary shall be governed by remedies as promulgated by the Supreme Court.

The remedies under this section shall be sought or granted without prejudice to any other administrative, civil or criminal action covering the same act.

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

In case the requesting party has limited or no financial capacity, the Public Attorney's Office is mandated to provide legal assistance to the requesting party in availing of the remedies provided under this Act.

SEC. 22. *Keeping of Records.* – (a) Government agencies shall create and maintain in appropriate formats, accurate and reasonably complete documentation or records of their organization, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities,

(b) Government agencies, in coordination with the National Archives of the Philippines, shall identify specific and classes of official records in their custody or control that have continuing historical, administrative, informational, legal, evidentiary, or research value, for preservation by such agencies or their legitimate successors, or for proper documentation if and when the records are transferred to the National Archives of the Philippines.

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

- (1) records pertaining to loans obtained or guaranteed by the government;
- (2) records of government contracts involving amounts Fifty Million Pesos (Php 50,000,000) or more, or related to infrastructure, public and private partnerships, utilities, or other important projects;
- (3) the original Declarations under oath of the assets, liabilities and net worth of public officers and employees submitted to the Office of the Ombudsman, as required by law, and
- (4) records of official investigations pertaining to allegations of graft and corruption of public officers.

(d) Government agencies shall prepare, according to the standards set in and within the period mandated by Republic Act No. 9470 or the National Archives of the Philippines Act of 2007, a records management program that includes the following:

- (1) a records maintenance system for the creation, selection, classification, indexing and filing of official records that facilitate the easy identification, retrieval and communication of information to the public;
- 2) a records maintenance, archival and disposition schedule providing a listing of records under current use for retention by the agency, for transfer to the National Archives, or for destruction: *Provided*, That destruction of the official records may be implemented only upon approval of the National Archives of the Philippines; and

(3) identification of the specific roles and responsibilities of agency personnel in the implementation of such system and schedule.

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

- (1) all laws of the Philippines and their amendments, from the period of the Philippine Commission to the present;
- (2) all presidential issuances from November 15, 1935 to the present, including but not limited, to executive orders, presidential proclamations, administrative orders, memorandum circulars, general orders, and other similar issuances;
- (3) a database of all appointments and designations made by the President of the Philippines; and
- (4) opinions rendered by the Secretary of Justice.

SEC 23. *Publication in the Official Gazette.* - For purposes of mandatory disclosure as provided in Section 9 of this Act, the publication in the Official Gazette website shall be considered official publication provided there shall be a timestamp in the said document.

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

- (a) All important legislative acts and resolutions of a public nature of the Congress of the Philippines;
- (b) All executive and administrative orders and proclamations of general application;
- (c) Decisions or abstracts of decisions of the Supreme Court and the Court of Appeals or other courts of similar rank, as may be deemed by said courts of sufficient importance to be so published;
- (d) Such documents or classes of documents as the President shall determine from time to time to have general application or which he may authorize to be published.

However, other documents or classes of documents as may be required to be published by law, such

as petitions and/or legal notices in connection with land titles, naturalization or special proceedings shall continue to be published in the print version of the Official Gazette or in any newspaper of general circulation for purposes of compliance with the publication requirement.

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 denial of the right to information under Article III, Section 7 of the 1987 Constitution.

SEC. 25. Publication of Government Data in the Open Data Philippines Website. - For purposes of enhancing the public's access to government information and abiding by the Philippines' international commitments to transparency and government openness, all government agencies shall publish in the Open Data Philippines website, datasets generated in the implementation of agency mandates, programs, activities, and projects. These datasets shall be updated, whenever permissible, at least once in every quarter of every year.

The Open Data website shall be maintained and administered by an Open Data Task Force under the Office of the President, or any such similar body designated by the President for this purpose.

For the purpose of making government data more accessible to the public, all datasets published on the Open Data Philippines website and on LGU websites as mandated in Section 9 of this Act shall be, whenever practicable, of a machine-readable and open format.

SEC. 26. Tracking Requests for Information. - Websites of government agencies shall contain a matrix of requests made, their status, and the decision regarding the request. The matrix shall also contain links to uploaded information from approved requests. In such cases where requests are denied, the matrix shall contain the reasons for denial and the status of the appeal if such is done.

SEC. 27. Release to One, Release to All. - For purposes of streamlining requests for information, once an information has been made available to an individual through a request for information, the said dataset shall also be published in an appropriate website such as, but not limited to, the Open Data Philippines website, Official Gazette website, Departmental website, or Local Government website thus allowing the public access to all information that has been requested.

SEC. 28. Integration of Freedom of Information (FOI) and Good Governance In Elementary and Secondary Curriculum. - To ensure well-informed generations of citizens, the right to information, the principles of accountability and transparency, democracy and leadership, and good

information they received, processed, granted and denied; of appeals made from denials of such requests; and of pending court actions they are a party to as result of such requests. These reports may be integrated in the main annual reports of government agencies and may be posted and published in their respective websites.

SEC. 30. *Appropriations.* - The amount necessary to carry out the provisions of this Act shall be charged against those authorized in the current and subsequent General Appropriations Acts.

SEC 31. *Separability Clause.* - If any provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in full force and effect.

SEC 32. *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 on Operation and Effect of Laws, 24 and 25 on the Contents, Editing and Publications of the Official Gazette, Book I, of Executive Order No. 292 or the Administrative Code of 1987 in relation to Article 2 on Effect and Application of Laws of Republic Act No. 386 or the Civil Code, 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).

SEC 33. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.