

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2773

HOUSE OF REPRESENTATIVES	
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Introduced by HONORABLE LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

EXPLANATORY NOTE

No less than the 1987 Constitution has recognized every Filipino's right to information. Article III, Section 7 of the Constitution states:

The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

The People's Responsible Right to Information Bill is one such major step in actualizing this constitutional provision to enable citizens to access information in areas of public concern. Indeed, the free and open exchange of information in a democracy is necessary to enhance the transparency and accountability in government official acts, transactions, and decisions.

The Supreme Court in a series of its decisions has consistently upheld the right to information by every citizen. Speaking in the landmark case of Valmonte vs. Belmonte, the Court held that "Open dialogue can be effective only to the extent that the citizenry is informed and thus able to formulate its will intelligently. Only when the participants in the discussion are aware of the issues and have access to information relating thereto can such bear fruit."

However, this bill takes into serious consideration the fact that information is power and should therefore be held responsibly. It maintains respect to the strength of the fundamental human right of privacy and of communication while ensuring the free flow of information to promote innovation and growth.

The last clause, Article III, Section 7 of the Constitution clearly provides that the right to information of the people can be subject to some level of control to preclude abuse and misuse of the information made available. Hence, to ensure that this right does not go unbridled, this proposed measure seeks to strike a balance between the

people's right to information while putting in place reasonable mechanism of regulation.

This bill also takes into consideration the mandate of the newly created Department of Information and Communications Technology to spearhead the capacity-building of the various government bodies in implementing this Act and to continuously monitor its meaningful enforcement. To accomplish the latter, a Congressional Oversight Committee is likewise proposed to be created in order to conduct a sunset review of this proposed measure to come up with remedial legislation when the need arises.

This bill likewise mandates every government agency to have a clear set of rules of procedure in entertaining all the requests by a citizen. At the same time, the agencies will be mandated to make readily available all information on their website or any other medium subject to legal limitations.

Compared to the earlier versions, this bill has included the officers of the Philippine National Police and heads of GOCCs as among the government officials required to make available their SALN available on their agencies' official website. This version likewise covers all employees regardless of Salary Grade into complying with the requirements of the Act.

With our promise of a more transparent and accountable government to the people, the immediate approval of this bill is earnestly sought.



LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

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Introduced by HONORABLE LUIS RAYMUND F. VILLAFUERTE, JR.
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AN ACT IMPLEMENTING THE PEOPLE'S RESPONSIBLE RIGHT TO INFORMATION AND THE CONSTITUTIONAL POLICIES OF FULL PUBLIC DISCLOSURE AND HONESTY IN THE PUBLIC SERVICE AND FOR OTHER PURPOSES

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 Responsible Right to Information Act of 2016."

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

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

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

- (a) "Information" shall mean any public and/or official record, document, paper, report, letters, contract, minutes and transcripts of official meetings, maps, books, photographs, data, research material, film, audio and video recordings, magnetic or other tapes, electronic data, computer stored data, or other like or similar data or material of public concern recorded, stored or archived in whatever form or 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.

- (b) "Official record/records" shall refer to information, in final form 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.
- (c) "Public record/records" shall include information required by law, executive orders, rules, or regulations to be entered, kept and made publicly available by a government agency.
- (d) "Public service contractor" shall be defined as a private entity that has a dealing, contract or transaction of whatever form or kind with the government or a government agency/office that utilizes public funds.
- (e) "Personal information" shall refer to any information whether recorded in a material form or not from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information or when put together with other information would directly and certainly identify an individual.
- (f) "Sensitive personal information" shall refer to personal information:
 - (1) about an individual's race, ethnic origin, marital status, age, color and religious, philosophical or political affiliations;
 - (2) about an individual's health, education, genetic or sexual life of a person or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
 - (3) issued by government agencies peculiar to an individual which includes, but not limited to, passports, social security numbers, previous or current health records, licenses or its denials, suspension or revocation and tax returns; and
 - (4) specifically established by an executive order or an act of Congress to be kept classified.

SECTION 4. Coverage. – This Act shall cover all government agencies. Government agency or agencies shall include the executive, legislative and judicial branches as well as constitutional bodies of the Republic of the Philippines including, but not limited to, 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, and state universities and colleges.

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

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

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of the Office which is in custody or control of the information, public record or official record, or the responsible central or filed officer duly designated by him in writing.

In making such determination, the Head of the Office or his designated officer shall exercise reasonable diligence to ensure that no exception shall be used or availed of to deny any request for information or access to public records, or official records if the denial is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

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

- (a) The information is specifically authorized to be kept confidential under guidelines established by an Executive Order, and in fact properly classified pursuant thereto: *Provided, That:*
 - (1) The information directly relates to national security or defense and its revelation may cause 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 any state, or prejudice the entrusting of information to the Republic of the Philippines on a basis of confidence by the government of any other country or any international organization: *Provided, That* sufficient information is disclosed to afford reasonable public participation in government decision-making on bilateral and multilateral agreements: *Provided, further, That* the head of the department or agency having custody or possession of such information, shall keep under continuing review all classified information in his custody and may direct the declassification review of such review as needed. Declassification of the information shall be subject to the approval of the President.
- (b) The information consists of minutes or records of advice given or of opinions expressed during decision-making or policy formulation including exchanges when the chief executive was not present, if invoked by the chief executive to be part of presidential communications privilege. Whenever disclosure would significantly undermine the free and frank provision of advice or exchange of views: *Provided, that* an executive order shall be issued specifying the reasonable period after which information invoked to be privileged under this paragraph shall be made accessible to the public.

- (c) The information requested pertains to internal and/or external defense, law enforcement, and border control, when the disclosure thereof may:
- (1) Compromise or interfere with any legitimate military or law enforcement operation, or
 - (2) Compromise or interfere with the legitimate prevention, detection or suppression of criminal activity, or the legitimate implementation of immigration controls and border security, or
 - (3) Lead to the disclosure of the identity of a confidential source, including an individual or a government or a foreign agency or authority or any private institution which is 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
 - (4) Disclose legitimate techniques and procedures for law enforcement investigations or prosecutions, or would disclose legitimate guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or
 - (5) Endanger the life or physical safety of any individual, or
 - (6) Deprive a person of a right to a fair trial and impartial adjudication.
- (d) The information requested pertains to matters of human security, such as, but not limited to, food, health, money and trade: *Provided*, That such disclosure or premature disclosure will imperil our well-being or degrade the quality of life of our people by causing unnecessary panic and conflict and threatening to limit the range of policy choices available to the concerned implementing and regulating agencies: *Provided, further*, That this exception shall apply only until such time that the confidentiality requirement of the action plan of said agency is no longer necessary in addressing the said security issue.
- (e) The information requested consists of drafts of orders, resolutions, decisions, memoranda or audit reports by any executive, administrative, regulatory, constitutional, judicial or quasi-judicial body in the exercise of their regulatory, audit and adjudicatory function. The revelation of which would prejudice the impartiality of verdicts or otherwise obstruct the administration of justice.
- (f) The information requested is obtained by either House of Congress, or any committee thereof, in executive session.
- (g) The information requested pertains to the personal and sensitive information of a natural person other than the requesting party, and its disclosure would constitute an unwarranted invasion of his or her personal privacy, or the person is or was an official or employee of a government agency and the information relates to his other public function or the person has consented, in writing, to the disclosure of

the information.

- (h) The information requested pertains to trade secrets and commercial or financial information obtained from a natural or juridical person other than the requesting party, obtained in confidence or covered by privileged communication, and/or filed with a government agency, whenever the revelation thereof would prejudice the interests of such natural or juridical person in trade, industrial, financial or commercial competition.
- (i) 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.
- (j) The information requested is exempted from disclosure by the Constitution or by law, including information protected under the Anti-money Laundering Law, as amended, and the bank secrecy laws.
- (k) The information is of a nature that its premature disclosure would:
 - (1) in the case of an agency that regulates or deals with currencies, interest rates, securities, commodities, or financial institutions, be likely to lead speculations in currencies, interest rates, securities, or commodities market; or
 - (2) in the case of other agencies, be likely to frustrate the effective implementation of a proposed official action: *Provided*, That the information shall be disclosed once the abovementioned dangers have ceased.
- (l) The information has already been made accessible as provided in Sections 8(a), 9, 11, and 15 of this Act.

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: *Provided*, That:

- (1) The exceptions are strictly construed;
- (2) The exceptions are not used to cover-up a crime, or any unlawful activity;
- (3) The President, the Supreme Court, the Senate, the House of Representatives, and the Constitutional Commissions with a majority vote of the body in accordance with their own rules of procedure when applicable 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;
- (4) The exceptions do not constitute authority to withhold information from, or limit the availability of records to congress, or any of its committees;

- (5) The exceptions do not constitute an authority of the executive branch of a local government unit to withhold information from its legislative body.
- (6) Whenever the information requested is part of a record, whose other parts are covered by an exception, but may be reasonably severed from a record, the responding official shall communicate the information not covered by the exception to the requester; and
- (7) The exceptions set forth in this section may be overcome if the person requesting is able to prove before a court of competent jurisdiction that the public interest in the disclosure of information outweighs the public interest in keeping the information secret or confidential;
- (m) The information requested pertains to information about the ongoing evaluation or review of bids or proposals undertaken by the bidding or review committee prior to an official recommendation by the government.

SECTION 8. *Mandatory Disclosure of Information.* –

- (a) In fulfillment of Article XI, Section 17 of the Constitution, the following national officials shall disclose to the public their Statement of Assets, Liabilities, and Net Worth (SALN) on an annual basis in their official website:
 - (1) President;
 - (2) Vice-President;
 - (3) Members of the Cabinet;
 - (4) Members of Congress;
 - (5) Justices of Supreme Court;
 - (6) Members of Constitutional Commissions and other constitutional offices;
 - (7) Officers of the armed forces and Philippine National Police with general or flag rank.
 - (8) Heads of government-owned or -controlled corporations, including wholly-owned or controlled subsidiaries, government financial institutions, and state universities and colleges.
- (b) All agencies of all branches of government shall upload on their websites, which shall be updated as often as practicable, a register of the following public interest transactions, documents or records, including:
 - (1) Annual Budget of Government Agencies;
 - (2) Itemized Monthly Collections and Disbursement;
 - (3) Summary of Income and Expenditures;
 - (4) Component of the IRA Utilization;
 - (5) Annual Procurement Plan and Procurement List;
 - (6) An updated plantilla of positions and vacant positions with qualifications/requirements in their organizations that need to be filled-up;
 - (7) Items to Bid;
 - (8) Bid Results on Civil Works, and Goods and Services;
 - (9) Abstract of Bids as Calculated;
 - (10) Procurement contracts entered into by a government agency;
 - (11) Construction or concession agreements or contracts entered into by a

- government agency with any domestic or foreign person or entity;
- (12) Private sector participation agreements or contracts in infrastructure and development projects under Republic Act No. 6957, as amended by Republic Act No. 7718, authorizing the financing, construction, operation and maintenance of infrastructure projects;
 - (13) Public funding extended to any private entity;
 - (14) Bilateral or multilateral agreements and treaties in trade, economic partnership, investments, cooperation and similar binding commitments;
 - (15) Licenses, permits or agreements granted by any government agency to any person or entity for the extraction and/or utilization of natural resources and a list of the grantees;
 - (16) Guarantees given by any government agency to government-owned or controlled corporations and to private corporations, persons or entities;
 - (17) Loans from domestic and foreign financial institutions;
 - (18) Loans, grants, development assistance, technical assistance, and programs entered into by a government agency with official bilateral or multilateral agencies, as well as with private aid agencies or institutions; and
 - (19) Compromise agreements entered into by a government agency with any person or entity.

The register shall contain a brief description of the transaction involved including, but not limited to: 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 (PhP 50,000,000.00) shall be uploaded in full on the website of the concerned government agency and the *Official Gazette* online. A covered record shall be enrolled in the register not later than thirty (30) working days from its perfection or issuance.

Provided, that such information mandated to be posted on the official website of the government agency must comply with the provisions of Section 10 of this Act in ensuring that the right to privacy of individuals is protected.

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

- (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) Audited financial statements, and budget and expenditure records;

(5) Statements of assets, liabilities and net worth of all public officials and heads of office;

(6) Monthly income including allowances and sources of income of all public officials and heads of office;

(7) Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;

(8) Important rules and regulations, orders or decisions: *Provided*, That they be published within fifteen (15) calendar days from promulgation;

(9) 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;

(10) 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;

(11) Current and important database and statistics that it generates;

(12) Bidding processes, deadlines and requirements; and

(13) Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

(14) Any disclaimer that shall announce true and correct information relative to a matter of public concern that has been the subject of untruthful or inaccurate publication in media.

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

SECTION 10. *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) Each government office shall ensure that personal information and sensitive information in its custody or under its control is disclosed or released only if it is material or relevant to the subject matter of the request and its disclosure is permissible in accordance with this Act;

(b) A government agency must protect personal and sensitive information in its custody or under its control by making reasonable security arrangements against leaks or premature disclosure of personal information is requested, to vilification, harassment or any other wrongful acts;

(c) An employee, officer or director of a government agency who has access,

whether authorized or unauthorized, to personal and sensitive information in the custody of the agency, must not disclose that information except as authorized under this Act.

SECTION 11. *People's Responsible Right to Information Manual (Manual).* –

- (a) For the effective implementation of this Act, all government agencies shall prepare a Manual. The Manual of each agency shall ensure that the right to privacy is respected and every person or entity is protected from harassment. Within six (6) months from the effectivity of this Act, the Manual of each agency must be made available indicating the following:
- (1) The location and contact information of the head, regional, provincial and field offices, and other established places where the public can obtain government 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 acknowledgment 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, the decision making process, and the grant or denial of access and its implementation;
 - (8) The procedure for the administrative appeal of any denial for access to information;
 - (9) The schedule of fees;
 - (10) The process and procedure for the mandatory disclosure of information under Section 8 of this Act: *Provided, That*, should the agency lack the capacity to fully comply therewith, a brief description of its plan to facilitate compliance within three (3) years from the approval of this Act;
 - (11) Such other information, taking into consideration the unique characteristics of an agency, that will help facilitate the effective implementation of this Act;
 - (12) The foregoing information shall also be posted in its website and bulletin boards, and shall be regularly updated;
 - (13) In no case shall the absence of the aforementioned Manual be a reason for the denial of any request for information made in accordance with this Act;

- (14) The heads of each of the departments and agencies may designate liaison units or committees who 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 Manual.

SECTION 12. *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 due to being a person with disability, to make a written request for information may make an oral request, and the public official who receives the oral request shall reduce it to writing, and include his name and position within the government agency, and give a copy thereof to the person who made the request.
- (b) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the full name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the specific reason for, or purpose of, the request for information: *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 such reason is contrary to law or is one of the exceptions enumerated in this Act. *Provided, further*, that the information requested shall be used solely for the purpose stated therein and its use for any other purpose shall require the requesting person to submit another request.
- (c) The public official receiving the request shall provide reasonable assistance, free of charge, to enable all requesters and particularly those with special needs, to comply with the request requirements under this section.
- (d) The request shall be stamped by the government agency, indicating the date and time of receipt and the name, rank, title and position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the requesting party. 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 to trace the status of all requests for information received by it.
- (e) 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.
- (f) A government agency may communicate the information requested in a form other than the preferred means whenever the agency has no capability in communicating the information in the preferred format, or such preferred means would unreasonably interfere with the effective operation of the agency or be detrimental to the preservation of the record.

- (g) The government agency shall comply with such 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.
- (h) 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.
- (i) 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.

If the information is not held by the government agency to which the request was made, it shall notify the person requesting that it does not hold the information and shall 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.

SECTION 13. Access and Processing Fees. – Government agencies may charge a reasonable fee which shall in no case exceed 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 person requesting is an indigent, or that the cost of reproduction is negligible, or that it is pursuant to a program for proactive disclosure.

SECTION 14. One Stop Shop. – Each government agency is mandated to have a one stop shop for the services made available by this Act. Each government agency shall assign at least one employee who shall act as officer of the day and one supervisor on matters that require the exercise of discretion.

SECTION 15. Exemption from Compliance and Protection from Administrative Abuse. – The government agency is 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. The government agency is likewise excused from compliance if the request or series of requests is patently meant to harass such agency into compliance and/or is deliberately done to overburden the agency with such requests: *Provided*, That the government agency complies with Section 16 of this Act.

SECTION 16. 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) calendar 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 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.

SECTION 17. Remedies in Cases of Denial of Request for Information. –

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

- (1) Every denial of any request for access to information may be appealed to the person or office next higher in authority of the same agency, following the procedure mentioned in Section 11 (a)(8) of this Act: *Provided*, That the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial. The appeal shall be decided by the person or office next higher in authority of the same agency within five (5) working days from filing of said written appeal. Failure of the government agency to decide within the aforesated period shall constitute denial of the appeal.
- (2) Upon denial of the appeal with the government agency, the requesting party 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 requested information. Unless restrained or enjoined, the decision of the court shall be immediately executory without prejudice to review in accordance with the Rules of Court. Any action for administrative and/or criminal liability arising from the same act or omission, if any, shall be filed with the Office of the Ombudsman.

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

- (b) In the Judicial Branch, the judiciary shall be governed by such remedies as promulgated by the Supreme Court.
- (c) The remedies provided in this section are without prejudice to any other administrative, civil or, criminal action covering the same act.
- (d) The remedies available under this Act shall be cumulative and subject to the rule of exhaustion of administrative remedies.

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

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

SECTION 18. *Archival and Preservation of Records.* –

- (a) Government agencies shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation or records of their organization, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected. These shall include working files such as drafts or notes, whenever these have been circulated within the agency for official purpose such as for discussion, comment or approval or when these contain unique information that can substantially contribute to a proper understanding of the agency organization, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, and activities. This likewise includes information submitted by public service contractors to the government agency concerned such as receipts, identities of the suppliers, purchase orders, cash vouchers, related agreements with other private entities, and other documents related to the execution or the implementation of their transactions or contracts with the government agency involved;
- (b) The Department of Information and Communications Technology shall be responsible for setting the standards for the file formats and the system of archival and preservation of information to be used by all national and local government agencies including Government Owned and Control Corporations with or without original charter, in accordance with national laws, policies and programs on E-Government;
- (c) Government agencies 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 transfer to the National Archives of the Philippines. In addition, the National Archives of the Philippines shall likewise identify specific and classes of official records that it shall require agencies to preserve and transfer to it;
- (d) 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;
 - (3) The declaration under oath of the assets, liabilities and net worth of public officers and employees, as required by law;
 - (4) Records of official investigations pertaining to allegations of graft and corruption of public officers;
 - (5) Government agencies shall prepare, following standards and period promulgated pursuant to Republic Act No. 9470 or the National Archives of the Philippines Act of 2007, a records management program that includes the following:

- (6) 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;
 - (7) 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
 - (8) A specification of the 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 the same in print 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 of the Secretary of Justice.

SECTION 19. *Publication in the Official Gazette.* – For purposes of mandatory disclosure as provided in Section 8 of this Act, online 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 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.

SECTION 20. *Capacity-Building and the Role of the Department of Information and Communication Technology (DICT).* –

Every government agency shall ensure the provision of adequate training for its officials, and to keep updated as to best practices in relation to information disclosure, records maintenance and archiving.

The DICT shall monitor all government agency websites and render the appropriate support including capacity-building program and coordination with another appropriate agency, utilizing alternative mechanism and seeking the assistance of private relevant and willing volunteer groups to ensure full compliance with the requirements of this Act.

The DICT shall endeavor to continuously develop, improve and update its information technology system with a view to improving transparency and accessibility of public information by lessening human interaction through E-Government.

SECTION 21. *Use of Plain Language.* – Every government agency shall endeavor to use plain language in their communications orders, compliance, requirements or instructions issued to implement the provisions of this Act.

SECTION 22. *Administrative Offenses and Penalties.* –

- (a) The acts enumerated in this sub-section shall be tantamount to grave administrative offenses and shall constitute grounds for administrative and disciplinary sanction against any public official or employee who willfully and knowingly commits the following:
 - (1) Refusal to promptly forward the request under Section 12 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;
 - (2) Failure to act on the request within the periods required by this Act;
 - (3) Refusal to comply with the decision of his immediate supervisor, or of any court ordering the release of information;

- (4) Approval of policies, rules and regulations clearly 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;
 - (5) Failure to upload information required to be posted on an agency's website within the period provided under Section 19: *Provided*, That the head of agency or any other officer or employee tasked to perform said uploading shall be held liable.
- (b) The preceding subsection does not bar filing of appropriate administrative cases other than those grave offenses enumerated above.

SECTION 23. Criminal Offenses and Penalties. – The penalty of imprisonment of not less than one (1) month but not more than six (6) months and a fine ranging from Ten Thousand Pesos (PhP 10,000.00) to One Hundred Thousand Pesos (PhP 100,000.00) shall be imposed upon:

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

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

shall suffer, in addition to the penalties provided herein, the automatic revocation of their license to operate.

SECTION 24. *Penalty for Abuse of Released Information.* – The abuse or misuse of any information obtained through this Act, as a means to commit any felony under the Revised Penal Code or to violate any special law, shall serve to increase the penalty of the felony or the offense committed to its maximum.

SECTION 25. *Denial in Good Faith Not a Ground for Liability.* – A denial in good faith of a request made pursuant to the provisions of this Act shall not constitute grounds for administrative, civil or criminal liability. In cases of denial of the request, the public official, officer or employee involved must prove that he/she acted in good faith by specifying the ground relied upon for the denial.

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

SECTION 27. *Integration of Responsible Right to Information 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 governance shall be integrated in such subjects as *Heyograpiya*, *Kasaysayan at Sibika* (HEKASI) and *Araling Panlipunan* in the elementary level and in such subjects as Social Studies and *Makabayan* or its equivalent subjects in high school level. The Department of Education in coordination with the Civil Service Commission and other relevant offices shall prepare the necessary modules and teaching programs consistent with the objectives of this Act.

SECTION 28. *System of Incentives and Rewards.* – A system of special incentives and rewards is hereby established to be given to appropriate government agency or agencies that initiated and displayed compliance and full participation in the meaningful implementation of this Act. The incentives and rewards may include, but not limited to, social projects, grants-in-aid, national recognition, and similar entitlements.

SECTION 29. *Implementing Rules and Regulations.* – The Department of Justice, Department of Information and Communications Technology, Department of Science and Technology, Department of Finance, Department of Budget and Management, National Economic and Development Authority, Department of National Defense, Department of Foreign Affairs, Department of Public Works and Highway, Civil Service Commission, Department of Education, Philippine Information Agency, the UP Law Center, and representatives from civil society organizations and the private sector shall issue the necessary rules and regulations for the effective implementation of this Act within ninety (90) days after approval of this Act.

SECTION 30. *Congressional Oversight Committee.* – There is hereby created a Congressional Oversight Committee to monitor and oversee the implementation of the provisions of this Act. The Committee shall be composed of six (6) members from the Senate and six (6) members from the House of Representatives with the Chairpersons of the Committees on Public Information and Media of both the Senate and the House of Representatives as joint Chairpersons of this Committee. The five (5) other members

from each Chamber are to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The minority shall be entitled to pro rata representation but shall have at least two (2) representatives from each Chamber.

SECTION 31. Reports. – All government agencies shall be required to submit annual reports on the number of requests for information received and processed, of appeals made from the denial thereof, and such other information as provided in this Act. The said report may be integrated in the agencies' main Annual Report and its posting and publication in their respective websites shall be considered as sufficient compliance.

SECTION 32. Sunset Review. – Within five (5) years after the effectivity of this Act, or as the need arises, the Congressional Oversight Committee shall conduct a systematic evaluation of the accomplishments and impact of this Act, as well as the performance and organizational structure of the agencies for purposes of determining remedial legislation.

SECTION 33. Appropriations. – The amount necessary to carry out the provisions of this Act shall be charged against the agencies' current budget and shall thereafter be included in the annual General Appropriations Act.

SECTION 34. Separability Clause. – If any section or part of this Act is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force and effect.

SECTION 35. Repealing Clause. – All laws, decrees, executive orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Act, including Sections 18, 24 and 25 of Executive Order No. 292 in relation to Article 2 of Republic Act No. 386, Memorandum Circular No. 78 dated 14 August 1964 (Promulgating Rules Governing Security of Classified Matter in Government Offices), as amended, and Section 3, Rule IV of the Rules Implementing Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees), are deemed repealed: *Provided*, That Memorandum Circular No. 78 shall be deemed repealed after one (1) year from the effectivity of this Act or upon issuance of the Executive Order in Section 7(a) whichever comes first.

SECTION 36. Effectivity. – This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,