

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

SEVENTEENTH CONGRESS
FIRST REGULAR SESSION

HOUSE BILL NO. 463

HOUSE OF REPRESENTATIVES	
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Introduced by CIBAC Party List Representative
Sherwin Tugna

**AN ACT PROMOTING AND ENFORCING THE RIGHT OF THE PEOPLE TO
INFORMATION ON MATTERS OF PUBLIC CONCERN, AND FOR OTHER
PURPOSES**

EXPLANATORY NOTE

The right of the people to information held by the government is an indispensable element of a functioning representative democracy. The ideal "government by the people" presupposes that the people have access to information held by the government in order to effectively exercise its governing power. As observed by the Philippine Supreme court in one case, "There can be no realistic perception by the public of the nation's problems, nor a meaningful democratic decision-making if they are denied access to information of general interest." The free flow of information about the affairs of government paves the way for debate in public policy, and fosters accountability in government.

The right of the people to information held by the government is not only a political imperative. It is also essential in economic life. A free flow of information on matters of public information results in better government policies. It provides institutional foundation for a more responsive government planning by enhancing the capacity of the public to provide timely feedback to government. The availability of information held by the government widens the base for the generation to more knowledge about key development issues, not only by researchers and academic institutions, but also by the public at large. It promotes constructive and informed debate between and among government and stakeholders, and builds consensus

around policy objectives and over-all framework. All these promote more informed government interventions supported by a solid and broad-based constituency.

A free flow of information held by the government is also a vital safeguard against corruption and rent-seeking in government. The economic costs of corruption and rent-seeking are well known. There is loss in consumer surplus arising from higher prices, as well as loss in output because resources are wasted in rent-seeking activities such as bribery. Secrecy in government makes corruption flourish. It gives government officials and rent-seekers alike a wider room for maneuver and a greater cover for any evidence in corruption. In contrast, transparency exposes the vested interests involved, leads to the identification of corrupt officials, and eventually develops a more level playing field among economic actors.

Finally, a free flow of information held by the government enhances economic performance. The availability of information of official rules, policies, programs, and resource allocation enables the private sector to make sound long-term, economic decisions. This, in turn, advances economic efficiency and competitiveness.

The Philippine Constitution guarantees the right of its people to information on matters of public concern. Section 7 of the Bill of Rights 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.

Jurisprudence has clarified key aspects of the right of the people to information on matters of public concern, particularly its nature and scope. As regards its nature, the Philippine Supreme Court has proclaimed that the right to information is not a

private right but a public right, which may be asserted by any citizen. With respect to its enforceability, the Philippine Supreme Court in the case of *Legazpi vs. Civil Service Commission* has ruled that the Constitutional provisions on the right to information are self-executing. As to the scope of the guarantee, the right covers information which relates to matters of public concern.

Despite the Constitutional guarantee and the judicial affirmation of the right, denial of access to information held by the government remains prevalent. This situation will be mitigated by a law which grants every citizen the right to access information on matters of public concern. This will complement the existing Constitutional guarantee and relevant jurisprudence.

In view of this, this bill seeks to:

- (a) Put in place a uniform, speedy and effective means of enforcing the right to information on matters of public concern;
- (b) Provide a clear penalty for the unlawful denial of the right to information on matters of public concern; and
- (c) Clarify further the scope of the guarantee by defining its coverage, exceptions, process of enforcing right, and prescribing reasonable limitations.

Immediate passage of the bill is earnestly sought.



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ON MATTERS OF PUBLIC CONCERN, AND FOR OTHER PURPOSES**

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

1 **SECTION 1. Title.** – This Act shall be known as "***The People's Right to Public***
2 ***Information Act of 2016***".

3 **SECTION 2. Declaration of Policy.** – Section 7 of the 1987 Constitution recognizes that
4 the right to information on matters of public concern is a basic and indispensable right of
5 the people. Access to official records, and to documents and papers pertaining to
6 official acts, transactions, or decisions, is guaranteed. Therefore, the State adopts and
7 implements a policy of full public disclosure of all its transactions involving public
8 interest, subject to the procedures and limitations provided by this Act. Promoting and
9 enforcing the people's right to public information ensures that people will be able to
10 effectively and reasonably participate at all levels of social, political and economic
11 decision making.

12 **SECTION 3. Coverage.** – This Act shall cover government agencies defined under this
13 Act.
14

15 **SECTION 4. Definition of Terms.** – As used in this Act:
16

- 17 (a) "**Information**" shall refer to data that have been processed into a record,
18 document, paper, report, letter, contract, minutes and transcripts of official
19 meetings, maps, books, photographs, data, research, materials, in whatever
20 form, or films, sound and video recordings, magnetic or other tapes, electronic
21 data, in whatever format, which are made, received or kept in or under the
22 control of custody of any government agency pursuant to law, executive order,
23 rules and regulations, ordinance or in connection with the performance or
24 transaction of official business by any government agency.
25

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

13 (c) **"Official record/records"** shall refer to information produced or received by a
14 public officer or employee, or by a government agency in an official capacity or
15 pursuant to a public function or duty, regardless of whether the information is in
16 the draft, final, or any other stage or status.
17

18 (d) **"Public record/records"** shall refer to information required by law, executive
19 orders, rules, or regulations to be entered, kept and made publicly available by a
20 government agency.
21

22 **SECTION 5. Right of Access to Information.** – Every Filipino citizen has a right to and
23 shall, on request, be given access to any record under the control of a government
24 agency. Government agencies shall make available to the public for scrutiny, copying
25 and reproduction in the manner provided by this Act, all information pertaining to official
26 acts, transactions or decisions, as well as government research data used as a basis for
27 policy development, subject to the exceptions enumerated under section 7 of this Act,
28 regardless of their physical form or format in which they are contained and by whom
29 they were made.
30

31 **SECTION 6. Presumption.** - There shall be a legal presumption in favor of access to
32 information. No request for information shall be denied unless it clearly falls under the
33 exceptions provided under this Act.
34

35 **SECTION 7. Exceptions.** - Access to information shall be granted unless:
36

37 (a) The information is specifically authorized to be kept secret under guidelines
38 established by an executive order, and in fact properly classified pursuant
39 thereto: *Provided*, That 1) The information directly relates to national security or
40 defense and its revelation may cause grave damage to the national security or
41 internal and external defense of the State; or 2) The information requested
42 pertains to the foreign affairs of the Republic of the Philippines, when its
43 revelation may weaken the negotiating position of the government in an ongoing
44 bilateral or multilateral negotiation or seriously jeopardize the diplomatic relations
45 of the Philippines with any state; *Provided, further*, That the executive order shall
46 specify the reasonable period after which the information shall be automatically

1 declassified or subject to mandatory declassification review, and that any
2 reasonable doubt as to classification and declassification shall be settled in favor
3 of the right to information;
4

5 (b) The information consist of records of minutes, records of advice given or records
6 of opinions expressed during decision-making or policy formulation, invoked by
7 the Chief Executive to be privileged by reason of the sensitivity of the subject
8 matter or by reason of the impairment of the Chief Executive's deliberative
9 process that would result from the disclosure thereof. Once policy has been
10 formulated and decisions made, minutes and research data may be made
11 available for disclosure unless they were made in executive session.
12

13 (c) The information requested pertains to internal and/or external defense, law
14 enforcement, and border control, when the disclosure thereof may:

15
16 (i) compromise or interfere with any legitimate military or law enforcement
17 operation, or

18 (ii) compromise or interfere with the legitimate prevention, detection or
19 suppression of criminal activity, or the legitimate implementation of immigration
20 controls and border security, or

21 (iii) lead to the disclosure of the identity of a confidential source, including a
22 government, or foreign agency or authority or any private institution which
23 furnished information on a confidential basis, and, in the case of a record or
24 information compiled by a law enforcement authority in the course of an
25 investigation or by an agency conducting a lawful national security intelligence
26 investigation, information furnished by a confidential source, or

27 (iv) disclose legitimate techniques and procedures for law enforcement
28 investigations or prosecutions, or would disclose legitimate guidelines for law
29 enforcement investigations or prosecutions if such disclosure could reasonably
30 be expected to risk circumvention of the law, or

31 (v) endanger the life or physical safety of any individual.
32

33 (d) The information requested consists of drafts of orders, resolutions, decisions,
34 memoranda or audit reports by any executive, administrative, regulatory,
35 constitutional judicial or quasi-judicial body in the exercise of their regulatory,
36 audit and adjudicatory function.
37

38 (e) The information requested is obtained by either House of Congress, or and
39 committee thereof, in executive session.
40

41 (f) The information requested pertains to the personal information of a natural
42 person other than the requesting party, and its disclosure would constitute an
43 unwarranted invasion of his or her personal privacy, unless it forms part of a
44 public record, or the person is or was an official of a government agency and the
45 information relates to his or her public function or the person has consented, in
46 writing, to the disclosure of the information;

- 1
2 (g) The information requested pertains to trade secrets and commercial or financial
3 information obtained from a natural or juridical person other than the requesting
4 party, obtained in confidence or covered by privileged communication, and/or
5 filed with a government agency, whenever the revelation thereof would prejudice
6 the interests of such natural or juridical person in trade, industrial, financial or
7 commercial competition
8
9 (h) The information is classified as privileged communications in legal proceedings
10 by law or by the Rules of Court.
11
12 (i) The information requested is exempted from disclosure by law or by the
13 Constitution, in addition to those provided in this section,
14
15 (j) The information has already been made accessible as provided in Section 13 of
16 this Act.
17

18 For letters (c) to (j) of this section, the determination whether any of these grounds shall
19 apply shall be the responsibility of the head of office of the government agency in
20 custody or control of the information, or any responsible central or field officers duly
21 designated by him: *Provided, That:*
22

- 23 (1) The exceptions are strictly construed;
24 (2) The exceptions are not used to cover-up a crime, wrong-doing, graft, or
25 corruption;
26 (3) The President, the Supreme Court, the Senate, the House of
27 Representatives, and the Constitutional Commissions may waive an exception
28 with respect to information in the custody of offices under their respective
29 supervision or control, when they deem that there is an overriding public interest
30 in disclosure;
31 (4) The exceptions do not constitute authority to withhold information from
32 Congress nor authority for the executive branch of a local government unit to
33 withhold information from the legislative body of such local government unit;
34 (5) Whenever the information requested is part of a record, whose other parts are
35 covered by an exception, but may be reasonably severed from a record, the
36 responding official shall either sever the information not covered by the exception
37 and communicated it to the requester, or he shall edit the exempt information and
38 render it suitable for public disclosure and release the record to the requester
39 with a specific identification of the parts which were edited; and
40 (6) Even if the information requested falls under the exceptions set forth in this
41 Section, access to information shall not be denied if public interest in the
42 disclosure of the information outweighs public interest in securing its
43 confidentiality.
44

1 **SECTION 8. *Mandatory Disclosure of Information.*** - Government agencies are
2 mandated to regularly disclose the following information in the duration and manner
3 provided hereunder:
4

5 (a) In fulfillment of Article XI, Section 17 of the Constitution, the following national
6 officials shall disclose to the public, through their official website, their Statement
7 of Assets, Liabilities, and Net worth (SALN) on an annual basis:
8

- 9 (1) the President;
10 (2) the Vice- President;
11 (3) the Members of the Cabinet;
12 (4) the Members of Congress;
13 (5) the Justices of Supreme Court;
14 (6) the Members of Constitutional Commissions and other constitutional
15 offices; and
16 (7) officers of the armed forces with general or flag rank.
17

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

- 22 (1) Annual Budget of Government Agencies;
23 (2) Itemized Monthly Collections and Disbursement;
24 (3) Summary of Income and Expenditures;
25 (4) Component of the IRA Utilization;
26 (5) Annual Procurement Plan and Procurement List;
27 (6) Items to Bid;
28 (7) Bid Results on Civil Works, and Goods and Services;
29 (8) Abstract of Bids as Calculated;
30 (9) Procurement contracts entered into by a government agency;
31 (10) Construction or concession agreements or contracts entered into by a
32 government agency with any domestic or foreign person or entity;
33 (11) Private sector participation agreements or contracts in infrastructure and
34 development projects under Republic Act No. 6957, as amended by Republic Act
35 No. 7718, authorizing the financing, construction, operation
36 and maintenance of infrastructure projects;
37 (12) Public funding extended to any private entity;
38 (13) Bilateral or multilateral agreements and treaties in trade, economic
39 partnership, investments, cooperation and similar binding commitments;
40 (14) Licenses, permits or agreements granted by any government agency to any
41 person or entity for the extraction and/or utilization of natural resources and a list
42 of the grantees;
43 (15) Guarantees given by any government agency to government-owned or -
44 controlled corporations and to private corporations, persons or entities;
45 (16) Loans from domestic and foreign financial institutions;

- (17) 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;
- (18) Compromise agreements entered into by a government agency with any person or entity; and
- (19) Statement of Assets and Liabilities (SALN) of public officers having a salary grade "27"; Provided that the agency shall make available to the public all the SALNs of its public officers.

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 (P50,000,000.00) shall be uploaded in full on the website of the concerned government agency or the Official Gazette Online. A covered record shall be enrolled in the register not later than 30 working days from its perfection or issuance.

- (c) Each government agency shall regularly publish, print and disseminate at no cost to the public and in an accessible form, in conjunction with Republic Act 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 People's Right to Public Information Manual in full;
- (2) A description of its mandate, structure, powers, functions, duties, and decision-making processes;
- (3) A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- (4) The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
- (5) The Statement of Assets and Liabilities of the public officers of the government agency;
- (6) Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
- (7) Important rules and regulations, orders or decisions: *Provided*, That they be published within fifteen (15) calendar days from promulgation;
- (8) 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;
- (9) 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;
- (10) Current and important database and statistics that it generates;
- (11) Bidding processes and requirements; and
- (12) Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers.

1
2 (d) All government agencies shall over time endeavor and build the capacity and
3 practice to upload in full all other contracts, agreements, or treaties covered
4 under this section 8 specially those that are of the highest public interest by
5 reason of the amounts involved and the impact of the transaction to the public.
6 All government agencies must ensure that they have a compliant website within
7 two (2) years from the effectivity of this Act.
8

9 (e) Should an agency lack the capacity to comply with the website uploading
10 requirement of this section, the agency shall initiate a capacity-building program,
11 coordinate with another appropriate agency, or use an alternative mechanism, to
12 facilitate substantive compliance not later than three (3) years from the effectivity
13 of this Act. The National Computer Center shall monitor all government agency
14 websites and render the appropriate support for their development and full
15 compliance with the requirements of this Act.
16

17 (f) For purposes of improving capability, every government agency shall ensure the
18 provision of adequate training for its officials to improve awareness of the
19 people's ownership of government information and the provisions of this Act, and
20 to keep updated as to best practices in relation to information disclosure, records
21 maintenance and archiving.
22

23 In order to develop accessibility of language and form, every government agency
24 shall endeavor to translate key information into major Filipino languages and
25 present them popular form and means.
26

27 **SECTION 9. *People's Right to Public Information Manual.* –**
28

29 (a) For the effective implementation of this Act, all government agencies shall prepare a
30 People's Ownership of Government Information Manual, setting forth the following:
31

32 (1) The location and contact information of the head, regional, provincial and field
33 offices, and other established places where the public can obtain government
34 information or submit requests;
35

36 (2) The types of information it generates, produces, holds and/or publishes;
37

38 (3) A description of its record-keeping system;
39

40 (4) The person or office responsible for receiving requests for information;
41

42 (5) The procedure for the filing of requests personally, by mail, or through the
43 identified electronic means;
44

45 (6) The standard forms for the submission of request and for the proper
46 acknowledgment of the request;

- 1
2 (7) The process for the disposition of the request, including the routing of the request
3 to the person or office with the duty to act on the request, the decision-making
4 process, and the grant or denial of access and its implementation;
5
6 (8) The procedure for the administrative appeal of any denial for access to
7 information;
8
9 (9) The schedule of fees;
10
11 (10) The process and procedure for the mandatory disclosure of information 29
12 under Section 8 of this Act: *Provided*, That should the agency lack the capacity to
13 fully comply therewith, a brief description of its plan to facilitate compliance within
14 three (3) years from the approval of this Act; and
15
16 (11) Such other information, taking into consideration the unique
17 characteristics of an agency, that will help facilitate the effective implementation
18 of this Act.
19
20 (b) The foregoing information shall also be posted in its website and bulletin boards, and
21 shall be regularly updated;
22
23 (c) In no case shall the absence of the aforementioned Manual be a reason for the
24 denial of any request for information made in accordance with this Act.
25
26 (d) The heads of each of the departments and agencies may designate liaison units or
27 Committees who shall coordinate with the other units of the agency in implementing this
28 Act. The composition, functions and duties of these liaison units or Committees shall be
29 included in the People's Right to Public Information Manual.
30

31 **SECTION 10. *Protection of Privacy*** - While providing for access to information in public
32 records, this Act also affords full protection of the right to privacy of individuals, as
33 follows:
34

- 35 (a) A government agency must ensure that personal information in its custody or
36 under its control is disclosed only as permitted under this Act;
37
38 (b) A government agency must protect personal information in its custody or under
39 its control by making reasonable security arrangements against such risks as
40 unauthorized access, collection, use, disclosure, or disposal;
41
42 (c) An employee, officer or director of a government agency who has access,
43 whether authorized or unauthorized, to personal information in the custody of the
44 agency, must not disclose that information except as authorized under this Act.
45
46

1 **SECTION 11. Procedure of Access. –**
2

3 (a) Any person who wishes to obtain information shall submit, free of charge, a request
4 to the government agency concerned personally, by mail, or through electronic means.
5 A person who is unable, because of illiteracy or due to being a person with disability, to
6 make a written request for information may make an oral request, and the public official
7 who receives the oral request shall reduce it to writing, and include his name and
8 position within the government agency, and give a copy thereof to the person who made
9 the request. The request shall state the name and preferred contact information of the
10 requesting party, and reasonably describe the information required, the reason for the
11 request of the information and the preferred means by which the government agency
12 shall communicate such information to the requesting party: *Provided*, That the stated
13 reason shall not be used as a ground to deny the request or to refuse the acceptance of
14 the request, unless such reason is contrary to law. If the request is submitted
15 personally, the requesting party shall show his current identification card issued by any
16 government agency, or government or private employer or school, or a community tax
17 certificate. If the request is submitted by mail or through electronic means, the
18 requesting party may submit a photostatic or electronically scanned copy of the
19 identification, or other convenient means as determined by the agency.
20

21 (b) The public official receiving the request shall provide reasonable assistance, free of
22 charge, to enable all requesters and particularly those with special needs, to comply
23 with the request requirements under this section.
24

25 (c) The request shall be stamped by the government agency, indicating the date and
26 time of receipt and the name, rank, title and position of the receiving public officer or
27 employee with the corresponding signature, and a copy thereof furnished to the
28 requesting party. In case the request is submitted by electronic means, the government
29 agency shall provide for an equivalent means by which the requirements of this
30 paragraph shall be met. Each government agency shall establish a system to trace the
31 status of all requests for information received by it.
32

33 (d) The request may indicate the requesting party's preferred mode and means of
34 receiving the information requested, provided that the mode and means are reasonable
35 taking into consideration equipment normally available to the concerned government
36 agency.
37

38 (e) A government agency may communicate the information requested in a form other
39 than the preferred means whenever the agency has no capability in communicating the
40 information in the preferred format, or such preferred means would unreasonably
41 interfere with the effective operation of the agency or be detrimental to the preservation
42 of the record.
43

44 (f) The government agency shall comply with such request as soon as practicable, and
45 in any case within fifteen (15) working days from the receipt thereof. The period may be
46 extended whenever the information requested requires a search of the government

1 agency's field or satellite offices, examination of voluminous records, the occurrence of
2 fortuitous events or other analogous cases.

3
4 (g) The government agency shall, in writing or through electronic means, notify the
5 person making the request of the extension, setting forth the reasons for such extension
6 and the date when the information shall be made available, which in no case shall result
7 in an extension of more than twenty (20) working days.

8
9 (h) Once a decision is made to grant the request, the person making the request shall
10 be notified of such and shall pay the required access and processing fees.

11
12 If the information is not held by the government agency to which the request was made,
13 it shall notify the requester that it does not hold the information, and indicate to the
14 requester which agency holds the record, if known. Whenever practicable, the agency
15 receiving the request may also cause the transfer of the request to the appropriate
16 agency that holds the information: *Provided*, That the period to comply with the request
17 under this section shall begin to run only upon the receipt of the agency to which the
18 request is transferred.

19
20 **SECTION 12. Access and Processing Fees.** – Government agencies may charge a
21 reasonable fee to reimburse the actual cost of reproduction, copying or transcription and
22 the communication of the information requested. An agency may waive the fees
23 whenever it is satisfied that the requester is an indigent, or that the cost of reproduction
24 is negligible, or that it is pursuant to a program for proactive disclosure.

25
26 **SECTION 13. Exemption From Compliance.** – The government agency is excused from
27 complying with a subsequent identical or substantially similar request from the same
28 requesting party where it has previously complied with a request for information unless
29 a reasonable interval has lapsed between compliance with the previous request and the
30 making of the current request: *Provided*, That the government agency complies with
31 Section 14 of this Act.

32
33 **SECTION 14. Notice of Denial.** - (A) If the government agency decides to deny the
34 request in whole or in part, it shall, as soon as practicable, and in any case within fifteen
35 (15)working days from the receipt of the request, notify the person making the request
36 of such denial in writing or through electronic means. The notice shall clearly set forth
37 the ground or grounds for denial and the circumstances on which the denial is based,
38 and indicate available rights of reconsideration or appeal.

39 Failure to notify the person making the request of the denial, or of the extension, shall
40 be deemed a denial of the request for access to information.

41
42 **SECTION 15. Remedies in Cases of Denial.** - (A) In all government agencies other than
43 the judicial branch:

44
45 (1) Every denial of a request for access to information may be contested by a Request
46 for Administrative Reconsideration to the same responsible official who originally denied

1 the request or by an Administrative appeal to the Head of Agency, following the
2 procedure mentioned in Section 10 (a) (8) and Section 14 of this Act: *Provided*, That the
3 appeal must be filed within fifteen (15) calendar days from the receipt of the notice of
4 denial and must be decided within fifteen (15) calendar days from filing. Failure to
5 resolve the appeal within the aforementioned period shall constitute a denial of the
6 appeal: *Provided, Further*, That every Notice of Denial shall include check-box options to
7 be checked or marked by the requester for the Immediate Administrative
8 Reconsideration or Appeal to the head of the agency. If the requester, after indicating
9 his desired remedy, submits his Request for Administrative Reconsideration or Appeal
10 with the government official communicating the Notice of Denial to the requester, that
11 government official shall be responsible for immediately coursing the Request for
12 Administrative Reconsideration or Appeal to the appropriate official or head of the
13 agency: *Provided, Finally*, That the requester may, in addition to and together with his
14 Request for Reconsideration or Appeal, submit further arguments to strengthen request;
15

16 (2) Instead of appealing or after the denial of the appeal, the person denied access to
17 information may file a verified Complaint with the Office of the Ombudsman, praying that
18 the government agency concerned be directed to immediately afford access to the
19 information being requested, Such Complaint shall be resolved by the Office of the
20 Ombudsman within sixty (60) calendar days from filing, or earlier when time is of the
21 essence, taking into account such factors as the nature of the information requested,
22 context of the request, public interest and danger that the information requested will
23 become moot The Office of the Ombudsman shall promulgate its special rules of
24 procedure for the immediate disposition of Complaints filed pursuant to this Section.
25 Unless restrained or enjoined, the decisions of the Office of the Ombudsman shall be
26 immediately executory, without prejudice to review in accordance with the Rules of
27 Court;
28

29 (3) Instead of filing a Complaint with the Office of the Ombudsman, whenever a request
30 for information is denied originally or on administrative appeal, the requesting party may
31 file a verified petition for mandamus in the proper court, alleging the facts with certainty
32 and praying that judgment be rendered ordering the respondent, immediately, or at
33 some other time to be specified by the court, to disclose the information and to pay the
34 damages sustained by the requesting party by reason of the denial. The procedure to
35 such petition shall be summary in nature;
36

37 (4) In resolving a Complaint or Petition brought under the preceding paragraphs (2) and
38 (3), the Ombudsman or the court is empowered to receive the information subject of a
39 claim of exception under Section 7 herein and examine them *in camera* to determine
40 the sufficiency of the factual and legal basis of such claim, when such sufficiency cannot
41 be reasonably determined through evidence and circumstances apart from the
42 information.
43

44 (B) In the Judicial Branch - The Judiciary shall be governed by such remedies as
45 promulgated by the Supreme Court.
46

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

3
4 (D) The remedies available under this Act shall be exempt from the rules on non-
5 exhaustion of administrative remedies and the application of the provisions of Republic
6 Act No. 9285, otherwise known as the Alternative Dispute Resolution Act of 2004.

7
8 (E) In case the requesting party has limited or no financial capacity, the Public
9 Attorney's Office shall be mandated to provide legal assistance to the requester availing
10 of the remedies provided under this Act.

11
12 **SECTION 16. Keeping of Records.** - (A) Government agencies shall create and/or
13 maintain in appropriate formats, accurate and reasonably complete documentation or
14 records of their organization, policies, transactions, decisions, resolutions, enactments,
15 actions, procedures, operations, activities, communications and documents received or
16 filed with them and the data generated or collected. These shall include working files
17 such as drafts or notes, whenever these have been circulated within the agency for
18 official purpose such as for discussion, comment or approval or when these contain
19 unique information that can substantially contribute to a proper understanding of the
20 agency organization, policies, transactions, decisions, resolutions, enactments, actions,
21 procedures, operations, and activities;

22
23 (B) Government agencies shall identify specific and classes of official records in their
24 custody or control that have continuing historical, administrative, informational, legal,
25 evidentiary, or research value for preservation by such agencies or their legitimate
26 successors, or for transfer to the National Archives of the Philippines. In addition, the
27 National Archives of the Philippines shall likewise identify specific and classes of official
28 records that it shall require agencies to preserve and transfer to it.

29
30 (C) In addition to the specific and classes of official records identified for preservation
31 under letter (8) of this section, the following shall not be destroyed:

- 32
33 (1) Records pertaining to loans obtained or guaranteed by the government;
34 (2) Records of government contracts;
35 (3) The declaration under oath of the assets, liabilities and net worth of public
36 officers and employees, as required by law; and
37 (4) Records of official investigations pertaining to allegations of graft and
38 corruption of public officers.

39 (D) Government agencies shall prepare, following standards and period promulgated
40 pursuant to Republic Act No. 9470 or the National Archives of the Philippines Act of
41 2007, a records management program that includes the following:

- 42
43 (1) A records maintenance system for the creation, selection, classification,
44 indexing and filing of official records that facilitate the easy identification, retrieval
45 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) A specifications of the roles and responsibilities of agency personnel in the implementation of such system and schedule.

(E) 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 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 17. *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 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

1 be published in the print version of the Official Gazette or in any newspaper of
2 general circulation for purposes of compliance with the publication requirement.
3

4 **SECTION 18. *Administrative Liability.*** - The acts enumerated in this Section shall be
5 tantamount to grave administrative offenses and shall constitute grounds for
6 administrative and disciplinary sanction against any public official or employee who
7 willfully and knowingly commits the following:
8

9 (a) Refusal to promptly forward the request under Section 11 of this Act to the
10 public officer within the same office or agency responsible for officially acting on
11 the request when such is the direct cause of the failure to disclose the
12 information within the periods required by this Act;
13

14 (b) Failure to act on the request within the periods required by this Act;
15

16 (c) Refusal to comply with the decision of his immediate supervisor, the
17 Ombudsman, or of any court ordering the release of information;
18

19 (d) Approval of policies, rules and regulations clearly contrary to the provisions of
20 this Act, and which policies, rules and regulations are the direct cause of the
21 denial of a request for information.
22

23 **SECTION 19. *Criminal Liability.*** - (a) Any public official or employee who falsely denies
24 or conceals the existence of information which is a proper subject for disclosure under
25 this Act shall be liable for the crime of removal, concealment or destruction of
26 documents as defined under Article 226 of the Revised Penal Code.
27

28 (b) Any public official or employee who destroys, or causes to be destroyed, information
29 and/or documents being requested under this Act, for the purpose of frustrating the
30 requesting party's access thereto, shall be liable for the crime of removal, concealment
31 or destruction of documents as defined under Article 226 of the Revised Penal Code.
32

33 (c) Any individual who knowingly directed, induced or caused the commission of the
34 foregoing acts shall be liable as principal by inducement in the prosecution of public
35 officials or employees under this section.
36

37 (d) The penalty of *arresto mayor* shall be imposed upon any public officer or employee
38 responsible for officially acting on the request, who shall claim an exception under
39 Section 7 of this Act, or under the Constitution, when such claim is manifestly devoid of
40 factual basis.
41

42 **SECTION 20.** No abuse in the exercise of rights and in the performance of duties under
43 this Act. - Public officials and employees, in the performance of their duties under this
44 Act, as well as citizens in the exercise of their rights under this Act, shall act with justice,
45 give everyone his or her due, and observe honesty and good faith.
46

1 Public officials and employees as well as citizens shall endeavor to handle information,
2 kept or obtained under this Act with due care, to the end that inaccuracies and
3 distortions are avoided.

4
5 Any public official or employee, or citizen who, in the performance of duties or exercise
6 of rights under this Act, willfully or negligently causes loss, damage or injury to
7 another in a manner that is contrary to law, morals, good customs or public policy, shall
8 compensate the latter for the damage incurred. This is without prejudice to other
9 remedies available to the aggrieved party under any other law for the same acts.

10
11 **SECTION 21. *Mere Denial in Good Faith Not a Ground for Liability.*** - A mere denial in
12 good faith of a request made pursuant to the provisions of this Act shall not constitute
13 grounds for administrative, civil or criminal liability.

14
15 **SECTION 22. *Act Not a Bar to Claim of Right to Information Under the Constitution.*** -
16 No provision of this Act shall be interpreted as a bar to any claim of denial of the right to
17 information under Article III, Section 7 of the 1987 Constitution.

18
19 **SECTION 23. *Appropriations.*** - The amount necessary to carry out the provisions of this
20 Act shall be charged against the agencies' current budget and shall thereafter be
21 included in the annual General Appropriations Act.

22
23 **SECTION 24. *Separability Clause.*** - If any section or part of this Act is held
24 unconstitutional or invalid, the other sections or provisions not otherwise affected shall
25 remain in full force and effect.

26
27 **SECTION 25. *Repealing Clause.*** - All laws, decrees, executive orders, rules and
28 regulations, issuances or any part thereof inconsistent with the provisions of this Act
29 including sections 18, 24 and 25 of Executive Order No. 292 in relation to Article 2 of
30 Republic Act No. 386, Memorandum Circular No. 78 dated 14 August 1964
31 (Promulgating Rules Governing Security of Classified Matter in Government Offices), as
32 amended, and Section 3, Rule IV of the Rules Implementing Republic Act No. 6713
33 (Code of Conduct and Ethical Standards for Public Officials and Employees), are
34 deemed repealed.

35
36 **SECTION 26. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication
37 in at least two (2) national newspapers of general circulation.

38
39 Approved,