

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

FOURTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. _____

Introduced by Representatives Angara, Del Mar, Villanueva, Gonzales (C.), Abaya, Taliño-Mendoza, Tañada, De Guzman, Gonzales (A.), Ocampo, Casiño, Pablo, Hontiveros-Baraquel, Coquilla, Fua, Teodoro, Chatto, Maza, Beltran, Ilagan and Abante

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

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

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

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

10
11 **Sec. 3. Coverage.** – This Act shall cover all Government Agencies as
12 defined in Section 4 of this Act.

13
14 **Sec. 4. Definition Of Terms** – As used in this Act:

- 15
16 a. Information – shall mean any knowledge, record, document, paper, report, letters,
17 contract, minutes and transcripts of official meetings, maps, books, photographs,
18 data, research material, film, sound and video recordings, magnetic or other tapes,
19 electronic data processing records, computer stored data, or any other like or
20 similar data or material recorded, stored or archived in whatever form or format,
21 which are made, received, or kept in or under the control and custody of any
22 Government Agency pursuant to law, executive order, rules and regulations,

1 ordinance or in connection with the performance or transaction of official
2 business by any Government Agency;

- 3
- 4 b. Government Agency – shall include the Executive, Legislative, and Judicial
5 branches as well as Constitutional Bodies of the Republic of the Philippines,
6 including but not limited to: the national government and all its agencies,
7 departments, bureaus, offices and instrumentalities, constitutional commissions
8 and constitutionally mandated bodies, local governments and all their agencies,
9 regulatory agencies, chartered institutions, government-owned or controlled
10 corporations, government financial institutions, state universities and colleges, the
11 Armed Forces of the Philippines, the Philippine National Police, all offices in the
12 Congress of the Philippines including offices of Senators and Representatives, the
13 Supreme Court and all lower courts established by law;
- 14
- 15 c. Official Records – shall refer to information produced or received by the public
16 officer or employee or by a Government Agency in an official capacity or
17 pursuant to a public function or duty; and is not meant to be a stage or status of
18 the information; and
- 19
- 20 d. Public Records- shall include information required by law to be entered and kept
21 by a Government Agency such as but not limited to the:
- 22
- 23 1. Office of the Civil Registry;
 - 24 2. National Statistics Office;
 - 25 3. Register of Deeds;
 - 26 4. Land Transportation Office;
 - 27 5. Land Transportation Franchising and Regulatory Board;
 - 28 6. Securities and Exchange Commission;
 - 29 7. Intellectual Property Office; or
 - 30 8. Business Permits and Licenses Office and Assessor’s Office of the various
31 local government units.
- 32

33 **Sec. 5. Presumption.** – There shall be a legal presumption in favor of
34 access to information. Accordingly, Government Agencies shall have the burden of proof
35 of showing by clear and convincing evidence that the information requested should not
36 be disclosed

37

38 **Sec. 6. Access to Information.** – Government Agencies shall make
39 available to the public for scrutiny, copying, and reproduction in the manner provided by
40 this Act, all information pertaining to official acts, transactions or decisions, as well as
41 government research data used as basis for policy development, regardless of their
42 physical form or format in which they are contained, and by whom they were made.

43

44 **Sec. 7. Qualifications.** - Even if the information falls under the exceptions
45 set forth in the succeeding section, access to information shall not be denied if:

46

- 1 a. The information may be reasonably severed from the body of the information
2 which would be subject to the exceptions; or,
3 b. The public interest in the disclosure outweighs the harm to the interest sought to
4 be protected by the exceptions.
5

6 **Sec. 8. Exceptions.** – Subject to the qualifications set forth in Section 7,
7 and *Provided*, That, the information is specifically designated and described and the facts
8 and reasons for preserving the confidentiality are precisely and specifically recited, and
9 *Provided, Further*, That such information shall be available to either House of Congress
10 at all times, access to information may be denied when:
11

12 a. The revelation of the information will create a clear and present danger of war,
13 invasion, or any external threat to the State as determined by the Office of the
14 President and/or the Secretary of the Department of National Defense, *Provided*,
15 That, the Supreme Court may, upon complaint by any citizen, inquire into the
16 sufficiency of the factual basis for such determination;
17

18 b. The information pertains to the foreign affairs of the Republic of the
19 Philippines, when its revelation would unduly weaken the negotiating position of
20 the government in an ongoing bilateral or multilateral negotiation or seriously
21 jeopardize the diplomatic relations of the Philippines with one or more states with
22 which it intends to keep friendly relations; except that such information must
23 always be accessible to either House of Congress;
24

25 c. The information pertains to internal and external defense and law enforcement,
26 when the revelation thereof would render a legitimate military operation
27 ineffective, unduly compromise the prevention, detection or suppression of a
28 criminal activity, or endanger the life or physical safety of confidential or
29 protected sources or witnesses, law enforcement and military personnel or their
30 immediate families. Information relating to the details of the administration,
31 budget and expenditure, and management of the defense and law enforcement
32 agencies shall always be accessible to the public;
33

34 d. The information pertains to personal information of a third party natural person,
35 unless it forms part of a public record, or the third party is or was an official of a
36 Government Agency and the information relates to his or her public function;
37

38 e. The information pertains to trade, industrial, financial, or commercial secrets of
39 a third party natural or juridical person, obtained in confidence by a Government
40 Agency, whenever the revelation thereof would seriously prejudice the interests
41 of the third party in trade, industrial, financial, or commercial competition, unless
42 the third party has consented to the disclosure of the information;
43

44 f. The information is privileged from production in legal proceedings by law or by
45 the rules of court, unless the person entitled to the privilege has waived it;
46

1 g. The information is exempted by statutes of Congress, in addition to those
2 provided in this section;

3
4 h. The information is obtained by any committee of either House of Congress in
5 executive session; and

6
7 i. Drafts of decisions of any executive, administrative, judicial or quasi-judicial
8 body in the exercise of their adjudicatory functions, are being requested.

9
10 **Sec. 9. Procedure for Access. –**

11
12 a. Any person who wishes to obtain information shall submit a request to the
13 Government Agency concerned, as much as practicable in writing or through
14 electronic means, reasonably describing the information required, the reason for
15 the request of the information, and the means by which the Government Agency
16 shall communicate such information to the requesting party.

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

24
25 c. The request may indicate the following preferred means of communication:

- 26
27 1. A true copy of the information in permanent or other form;
28
29 2. An opportunity to inspect the information, using equipment normally
30 available to the Government Agency when necessary;
31
32 3. An opportunity to copy the information using personal equipment;
33
34 4. A written transcript of the information contained in a sound or visual
35 form;
36
37 5. A transcript of the content of an information, in print, sound or visual
38 form, where such transcript is capable of being produced using
39 equipment normally available to the Government Agency; or
40
41 6. A transcript of the information from shorthand or codified form.

42
43 d. A Government Agency may communicate information in a form other than
44 the preferred means whenever such preferred means would unreasonably interfere
45 with the effective operation of the agency, or be detrimental to the preservation of
46 the record.

1
2 **e.** The Government Agency shall comply with such request within ten (10)
3 calendar days from the receipt thereof.

4
5 f. The time limits prescribed in this section may be extended during unusual
6 circumstances where, in the production of the requested information, there is a
7 need:

- 8
9 1. To search for and collect the requested information from field facilities or
10 other establishments that are separate from the office processing the
11 request;
12
13 2. To search for, collect, and appropriately examine a voluminous amount of
14 separate and distinct information which are demanded in a single request;
15
16 3. For consultation, which shall be conducted in all practicable speed, with
17 another Government Agency or among two or more components of the
18 Government Agency having a substantial interest in the determination of
19 the request; and
20
21 4. To consider fortuitous events or other events due to force majeure, or
22 other analogous cases.

23
24 g. The Government Agency shall, in writing or through electronic means,
25 notify the person making the request of the extension setting forth the reasons for
26 such extension, and the date when the information shall be made available:
27 *Provided, That, no such notice shall specify a date that would result in an*
28 *extension of more than fifteen (15) calendar days.*
29

30 **Sec. 10. Access Fees.** – Government Agencies may charge a reasonable fee
31 to reimburse the cost of searching, reproduction, copying or transcription, and
32 communication of the information requested.
33

34 **Sec. 11. Notice of Denial.** – If the Government Agency decides to deny the
35 request, in whole or in part, it shall within ten (10) calendar days from the receipt of the
36 request, notify the person making the request of such denial in writing or through
37 electronic means. The notice shall clearly indicate the name, rank, title or position of the
38 person making the denial, and the grounds for the denial. In case the denial is by reason
39 of a claimed exception, the denial shall also state clearly the legitimate aim or interest
40 sought to be protected in the confidentiality, and the facts and circumstances invoked
41 showing the substantial harm to, or frustration of, the legitimate aim or interest that will
42 result in the disclosure of the information. Failure to notify the person making the request
43 of the denial, or of the extension, shall be deemed a denial of the request for access to
44 information.
45

46 **Sec. 12. Remedies in Cases of Denial.** –

1
2 a. *In the Executive and Legislative Branches and Constitutional Bodies.*
3

4 1. Every denial of any request for access to information may be appealed to
5 the person or office next higher in authority following the procedure provided in
6 the guidelines as required by Sec. 17 of this Act: *Provided*, That, the appeal must
7 be filed within fifteen (15) calendar days from Notice of Denial, and must be
8 decided within fifteen (15) calendar days from filing. Failure of the Government
9 Agency to decide within the aforesated period shall constitute a denial of the
10 appeal.
11

12 2. Instead of appealing or after the denial of the appeal, the person denied
13 access to information may, within fifteen (15) calendar days from the original
14 denial or denial of appeal, file a verified complaint with the Office of the
15 Ombudsman praying that the government agency concerned be directed to
16 immediately afford access to the information being requested. Such complaint
17 shall be resolved by the Office of the Ombudsman within sixty (60) calendar days
18 from filing or earlier, when time is of the essence, taking into account such factors
19 as the nature of the information requested, context of the request, public interest,
20 and danger that the information requested will become moot.
21

22 b. *In the Judicial Branch.* The Supreme Court shall promulgate the remedies
23 that would govern offices under its jurisdiction.
24

25 c. The remedies under this Section are without prejudice to any other
26 administrative, civil, or criminal action covering the same act.
27

28 d. The remedies available under this Act shall be exempt from the rules on
29 non-exhaustion of administrative remedies and the application of the provisions of
30 Republic Act 9285 otherwise known as the Alternative Dispute Resolution Act of 2004.
31

32 e. The Office of the Ombudsman shall promulgate its rules of procedure to
33 effect the purposes of this Act.
34

35 f. Unless restrained or enjoined, the decisions of the Office of the
36 Ombudsman shall be immediately executory without prejudice to review in accordance
37 with the Rules of Court.
38

39 g. In case the requester has limited or no financial capacity, the Public
40 Attorney's Office shall be mandated to provide legal assistance to the requester in
41 availing of the remedies provided under this Act.
42

43 **Sec. 13. Mandatory Disclosure of Transactions Involving Public**
44 **Interest.** – Subject to Sections 7 and 8 of this Act, all Government Agencies shall post on
45 their bulletin boards and upload on their websites, all the steps, negotiations and key
46 government positions pertaining to definite propositions of the government, as well as the

1 contents of the contract, agreement or treaty, in the following transactions involving
2 public interest:

3
4 a. Compromise agreements entered into by a Government Agency with any
5 person or entity involving any waiver or its rights or claims;

6
7 b. Private sector participation agreements or contracts in infrastructure and
8 development projects under Republic Act 6957, as amended by Republic Act 7718,
9 authorizing the financing, construction, operation and maintenance of infrastructure
10 projects.

11
12 c. Procurement contracts entered into by a Government Agency;

13
14 d. Construction or concession agreements or contracts entered into by a
15 Government Agency with any domestic or foreign person or entity;

16
17 e. Loans, grants, development assistance, technical assistance, and programs
18 entered into by a Government Agency with official bilateral or multilateral agencies, as
19 well as with private aid agencies or institutions;

20
21 f. Loans from domestic and foreign financial institutions;

22
23 g. Guarantees given by any Government Agency to government-owned and
24 controlled corporations and to private corporations, persons, or entities;

25
26 h. Public funding extended to any private entity;

27
28 i. Bilateral or multilateral agreements and treaties in defense, trade, economic
29 partnership, investments, cooperation, and similar binding commitments; or

30
31 j. Licenses, permits, or agreements given by any Government Agency to any
32 person or entity for the extraction and/or utilization of natural resources.

33
34 **Sec. 14. Promotion of Openness in Government. –**

35
36 a. *Duty to Publish Information.* - Government Agencies shall regularly publish
37 and disseminate, at no cost to the public and in an accessible form, by print and through
38 their website, timely, true, accurate, and updated key information including but not
39 limited to:

40
41 1. A description of its structure, powers, functions, duties, and decision-making
42 processes;

43
44 2. A description of the frontline services it delivers and the procedure and length of
45 time by which they may be availed of;

- 1 3. Work programs, development plans, investment plans, projects, performance
2 targets, and accomplishments, and budgets, revenue allotments, and expenditures;
3
- 4 4. Important rules and regulations, orders, or decisions;
5
- 6 5. Current and important database and statistics that it generates;
7
- 8 ~~6.~~ Bidding processes and requirements;
9
- 10 7. Mechanisms or procedures by which the public may participate in or otherwise
11 influence the formulation of policy or the exercise of its powers; and
12
- 13 8. A guide on accessing information containing adequate information about its
14 record-keeping system, the types of information it holds and/or publishes, the
15 procedure for obtaining access by the public to such information, the person or
16 office responsible for receiving the request and routing it to the person or office
17 with the duty to act on the request, the standard forms and procedure for request,
18 and the schedule of access fees.
19

20 *b. Keeping of Records.* Government Agencies shall maintain and preserve their
21 records in a manner that facilitates easy identification, retrieval, and communication to
22 the public. They shall establish Management Information Systems (MIS) to strengthen
23 their capability to store, manage, and retrieve records, and to facilitate access to public
24 records. The following shall not be destroyed:
25

- 26 1. Records pertaining to loans obtained or guaranteed by the government;
27
- 28 2. Records of government contracts;
29
- 30 3. The declaration under oath of the assets, liabilities, and net worth of public
31 officers and employees as required by law;
32
- 33 4. Records of official investigation on graft and corrupt practices of public
34 officers; and
35
- 36 5. Other records where there is a significant public interest in their preservation,
37 or there is likely to be such interest in the future.
38

39 *c. Accessibility of Language and Form.* Every Government Agency shall
40 endeavor to translate key information into major Filipino languages, and present them in
41 popular form and means.
42

43 *d. Improving Capability.* Every Government Agency shall ensure the
44 provision of adequate training for its officials to improve awareness of the right to
45 information and the provisions of this Act, and to keep updated of best practices in
46 relation to information disclosure, records maintenance, and archiving.

1
2 **Sec. 15. Criminal Liability** – The penalty of imprisonment of not less
3 than six (6) months but not more than one (1) year, with the accessory penalty of
4 suspension from office for the same duration, shall be imposed upon:

5
6 a. Any public officer or employee receiving the request under Sec. 9 of this Act who
7 shall knowingly refuse, or because of gross negligence fail, to promptly forward the
8 request to the public officer responsible for officially acting on the request, when such
9 is the direct cause of the failure to disclose the information within the periods
10 required by this Act;

11
12 b. Any public officer or employee responsible for officially acting on the request who
13 shall:

14
15 (1) Knowingly refuse, or because of gross negligence fail, to act on the
16 request within the periods required by this Act;

17
18 (2) Knowingly deny the existence of existing information;

19
20 (3) Deliberately destroy information being requested for the purpose of
21 frustrating the requester’s access thereto;

22
23 (4) Claim an exception under Section 8 of this Act, when the claim is
24 manifestly devoid of factual basis; or

25
26 (5) Refuse to comply with the decision of his immediate supervisor, the
27 Ombudsman, or the Court ordering the release of information that is not
28 restrained or enjoined by a court.

29
30 c. The head of office of the Government Agency directly and principally responsible
31 for the negotiation and perfection of any of the transactions enumerated in Section
32 13 of this Act, who shall knowingly refuse, or because of negligence fails, to
33 direct the mandatory posting or uploading of such transaction. The same penalty
34 shall be imposed upon the public officer or employee who, despite a directive
35 from the head of office, shall knowingly refuse or because of negligence fails to
36 post or upload any of the transactions enumerated in Section 14 of this Act;

37
38 d. Any public officer or employee who shall destroy, or cause to destroy, records of
39 information covered by Sec. 14.b. of this Act;

40
41 e. Any public officer who intentionally formulates policies, rules and regulations,
42 manifestly contrary to the provisions of this Act, and which policies, rules and
43 regulations are the direct cause of the denial of a request for information; or

44
45 f. Any public or private individual who knowingly induced or caused the
46 commission of the foregoing acts under this Section.

1
2 **Sec. 16. Strict Civil Liability.** – In case a request for information is denied
3 and subsequently reversed by final and executory judgment of the Ombudsman or the
4 courts, the Government Agency shall be liable to pay the requester damages in the
5 amount of one thousand pesos (P1,000.00) per day from the date of Notice of Denial until
6 the date of compliance with the request, which amount shall be automatically
7 appropriated. The public officer or employee and private individual responsible for the
8 denial shall be solidarily liable with the Government Agency unless he can prove that
9 such denial was made without fault or negligence or was not done arbitrarily or in
10 manifest bad faith. The liability under this section shall be without prejudice to actual,
11 moral and exemplary damages that may be adjudicated under the law.
12

13 **Sec. 17. Guidelines –**

14
15 a. For the full implementation of this Act within the Executive Branch of
16 government, the Office of the Press Secretary, particularly the Philippine Information
17 Agency, shall through a consultative process, promulgate within six (6) months from the
18 passage of this Act, the general guidelines to which government agencies controlled,
19 supervised or situated under the Office of the President, shall adhere in the establishment
20 of their specific guidelines for access to information, which shall include:
21

22 1. The location of the head, regional, provincial or field offices, or other
23 established places where the public can obtain information or submit requests therefor;
24

25 2. The types of information it holds and/or publishes;

26
27 3. The person or office responsible for receiving the request and routing it to the
28 person or office with the duty to act on the request, and the standard forms and procedure
29 for request;
30

31 4. The procedure for the administrative appeal of any denial for access to
32 information; and
33

34 5. The schedule of fees, which shall be limited to the reasonable and standard
35 charges for document search and reproduction, and the recovery of the direct costs
36 thereof.
37

38 Each of the abovementioned government agency, office and instrumentality shall
39 submit to the Philippine Information Agency a copy of its guidelines for review to ensure
40 standardization of the procedure and uniformity of fees, without prejudice to the right of
41 the different agencies, offices and instrumentalities to adopt appropriate procedures for
42 their unique functions and responsibilities.
43

44 b. The Legislative and Judicial Branches and the Constitutional Bodies shall
45 promulgate their own guidelines that would govern offices under their respective
46 jurisdictions. The Secretary of the Senate, House of Representatives Secretary General,

1 the head of the Supreme Court Public Information Office and the Public Information
2 Officers of Constitutional Bodies shall be responsible in furnishing copies of their
3 respective guidelines to the Philippine Information Agency.

4
5 c. The Office of the Ombudsman shall likewise promulgate its special rules of
6 procedure for the immediate disposition of complaints filed pursuant to Section 12 of this
7 Act.

8
9 In no case shall the absence of the aforementioned guidelines be reason for the
10 denial of any request for information made in accordance with this Act.

11
12 **Sec. 18. Act Not a Bar to Claim of Right to Information Under the**
13 **Constitution.** No provision of this Act shall be interpreted as a bar to any claim of denial
14 of the right to information under Article III, Section 7 of the 1987 Constitution.

15
16 **Sec. 19. Separability Clause.** – If for any reason, any section or provision
17 of this Act is held unconstitutional or invalid, no other section or provision shall be
18 affected.

19
20 **Sec. 20. Repealing Clause.** – All laws, decrees, executive orders, rules and
21 regulations, issuances or any parts thereof inconsistent with the provisions of this Act,
22 including Memorandum Circular No. 78 dated 14 August 1964 (Promulgating Rules
23 Governing Security of Classified Matter in Government Offices) as amended, and
24 Section 3, Rule IV of the Rules Implementing Republic Act No. 6713 (Code of Conduct
25 and Ethical Standards for Public Officials and Employees), are deemed repealed.

26
27 **Sec. 21. Effectivity.** – This Act shall take effect fifteen (15) days after its
28 publication in at least two (2) national newspapers of general circulation.

29
30 Approved,