

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

13th Congress
First Regular Session

HOUSE BILL NO. 784

Introduced by Representative Abayon

EXPLANATORY NOTE

It is the avowed policy of the government to afford to all its citizens broad access to public records consistent with their constitutional right to obtain information on government transactions involving public interest and on matters of national concern. This constitutional right is embodied in Article II, Section 28 of the Constitution which provides:

"Sec. 28. Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest."

And Article III, Section 7 which states:

"Sec. 7. 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 above-quoted constitutional provisions are clear affirmation of our adherence to a basic republican and democratic tenet – the recognition of the people's primordial right to be informed of the workings of its government. Our rights and obligations enshrined under the constitution would be meaningless if the working and operation of the Government are shrouded in secrecy.

This bill seeks to put an end to such deplorable practice which did not only wreak havoc on our economy but also eroded the trust that the people had reposed on the government.

In view of the aforecited reasons, approval of the bill is earnestly requested.

HARLIN CAST. ABAYON

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AN ACT IMPLEMENTING THE RIGHT OF ACCESS TO INFORMATION ON MATTERS OF PUBLIC CONCERN GUARANTEED UNDER 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:

SECTION 1. This Act shall be known as the "Freedom of Access to Information Act."

SECTION 2. Declaration of Policy. - It is the policy of the state to afford to all its citizens broad access to public records consistent with their constitutional right to obtain information on government transactions involving public interest and matters of national concern.

SECTION 3. Access to Information. - The following shall be made available for public scrutiny: records, documents, papers, research materials, tapes, microfilm, videotapes and the like, statements of policy and interpretations thereof, final opinions, as well as orders made in the adjudication of cases, administrative staff manuals and instructions affecting the public which are kept in or under the executive branch of the government, including the Office of the President, government research institutions, local governments, the military establishment and government-owned or controlled corporations which are hereinafter referred to as government agencies.

SECTION 4. Exemptions. - The following are deemed exempted from Section 3 hereof:

(a) Documents and papers pertaining to such officials acts, transactions and decisions, determined by the President as "Classified Information" in an Executive

Order duly published in the Official Gazette or in at least two (2) newspapers of general circulation in the Philippines, which, when the reproduction or revelation of information thereof, will create a clear and present danger to the security of the state.

(b) Documents and papers compiled for law enforcement purposes, which, when the reproduction or revelation of information thereof would:

(1) Unduly interfere with law enforcement proceedings;

(2) Deprive a person of the right to a fair trial or an impartial adjudication;

(3) Disclose the identity of a confidential source or reveal confidential source to the government agency on policy or intelligence investigation;

(4) Constitute an unwarranted invasion of personal privacy;

(5) Disclose investigative procedures, operations and techniques; and

(6) Endanger the life or physical safety of law enforcement personnel or their immediate families;

(c) All documents, papers, information, data and records obtained by any committee of the two house of Congress in executive session;

(d) Documents, papers and similar information on medical and personnel records, which, when the reproduction or revelation or unauthorized disclosure of information thereof, would constitute an invasion of personal privacy;

(e) Inter-agency memoranda, opinions and communications concerning a case under established discovery processes;

(f) Trade secrets, commercial or financial information obtained by a government agency responsible for the supervision and regulation of financial institutions, including those which are contained in or related to examination, operation or condition reports prepared by or made on behalf of or for the use of any government responsible for the supervision and regulation of financial institutions; and

(g) Those which are exempted by law or other than the provisions of this Act: Provided, however, That any reasonably segregable portion of the record shall be provided to any person requesting such record after the exempt portions under this Act have been deleted;

SECTION 5. Procedure. – Any person who wishes to obtain information or any specific records, documents, papers and the like, shall notify the government agency

concerned in writing, reasonably describing the information required. The government agency concerned shall comply with such request within five (5) working days from the receipt thereof.

If the government agency decides to deny the requests, in whole or in part, it shall, within five (5) working days from receipt of request, notify the person making the request of such denial in writing.

The notification shall clearly indicate the name, rank and title of position of the person making the denial and the grounds for the denial.

Cost of the reproduction, copying or transcription of the record or document requested shall not constitute a valid ground for the denial of a request without prejudice, however, to the right of the government agency to charge reasonable reimbursement.

SECTION 6. Extension. – In usual circumstances, as defined under this Act, the time limits prescribed in Section 5 above may be extended. Unusual circumstance arise where, in the production of the requested information, documents or records, there is a need:

(a) To search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(b) To search for, collect and appropriately examine a voluminous amount of separate and district records which are demanded in a single request; or

(c) For consultation, which shall be conducted within all practicable speed, with another agency having a substantial interest in the determination of the request of among two or more components of the agency having substantial subject matter interest therein

The agency shall, in writing, notify the person making the request of the extension setting forth reasons for such extensions and the date on which a determination is expected to be dispatched: Provided, however, That no such notice shall specify a date that would result in an extension of more than fifteen (15) working days.

SECTION 7. Jurisdiction of the Court. – The denial made by the government agency is deemed to have been made with permission or clearance from the highest authority having jurisdiction over the government agency concerned and may, thus be directly brought within fifteen (15) days from receipt of notice of denial to the Regional Trial Court where the agency records are situated or held in official custody.

The Regional Trial Court shall have exclusive and original jurisdiction over the cases filed under this Act.

SECTION 8. Preferential Disposition of Cases Under this Act. – Except for cases the court considers of greater importance, proceedings before the court, as authorized by this Act, take precedence on the docket over all cases.

The court shall commence proceedings without delay and shall be conducted summarily where the complainant and the defendant may submit their verified complaint and verified answer together with supporting documents and affidavits of merit, within a period of fifteen (15) working days, without extension. Thereafter, the case shall be deemed submitted for decision.

The court shall decide the case within fifteen (15) working days from submission of the verified complaint and verified answer of the parties.

SECTION 9. Appeal. – The decision of the lower court may be appealed to the Court of Appeals within fifteen (15) days from receipt by the losing party of the decision.

The appellee has a period of fifteen (15) days without extension, with which to file his verified reply which must set forth the factual and legal basis of the reply, after which the appeal shall be deemed submitted for decision.

The Court of Appeals must give priority to the appeal and must renders its decision within thirty (30) days from the date the appeal is submitted for decision.

SECTION 10. Penalties. – Any person found guilty of unreasonably and unjustly withholding any information or record, document and the like, requested under this Act shall be punished with a fine of not more than Twenty Thousand pesos (P20,000.00) or imprisonment of at least six (6) months and one (1) day but not more than six (6) years with all the accessory penalties as provided for by law, or both, at the discretion of the Court.

SECTION 11. Duties of Government Agency. – Each government agency, which shall be deemed to be acting under authority and with permission of the highest authority having jurisdiction over the particular agency concerned, shall make the following information available to the public:

(a) Location of head, regional, provincial or field offices or other established places where the public can obtain information or submit requests therefore.

(b) The person or office authorized/responsible to receive and to act on the request; and

(c) Any change, amendment or revision of the foregoing.

Each government agency shall publish the above-stated information in the Official Gazette and any newspaper of general circulation for the guidance of the public

Each government agency shall, within six (6) months after the effectivity of this Act, promulgate its procedures, rules and regulations, including fees and charges for the retrieval and production of information as provided in this Act.

The guidelines shall be submitted to the Philippines Information Agency for review as provided in Section 14 of this Act.

SECTION 12. Schedule of Fees. - Each government agency shall promulgate its rules and regulations, specifying a uniform schedule of fees applicable to all constituent units of such government agency: Provided, that such fees shall be limited to the reasonable and standard charges for document search and reproduction, and provide only for recovery of the direct costs of such search or reproduction. Provided, further, That documents shall be furnished without charge or at a reduced charge where the agency determines that a waiver or reduction of the fee is in the public interest.

SECTION 13. Declassification of Documents. - Any classified document or paper involving national security shall be reviewed every five (5) years by the head of the appropriate agency concerned for purposes of declassification. Declassified information or records shall always be made available to the public: Provided, That any classified document or paper involving national security shall be deemed declassified and open to the public after a period of twenty (20) years from the date of publication in the Official Gazette of the Executive Order declaring it to be so, unless the President of the Philippines in an Executive Order declares its continued classified status.

SECTION 14. General Guidelines. - For the implementation of this Act, the Office of the Press Secretary in coordination with the Philippine Information Agency shall promulgate, within three (3) months after the effectivity of this Act, the general guidelines by which the government agencies shall adhere to in the establishment of their specific procedures, rules and regulations. Each agency shall submit its guidelines to the Philippine Information Agency for review to ensure standardization of procedures and uniformity of fees, without prejudice to the right of an agency to adopt appropriate procedures for its unique functions and responsibilities.

SECTION 15. Separability Clause. - If for any reason, any section or provision of this Act is held unconstitutional or invalid, no other section or provision shall be affected.

SECTION 16. Repealing Clause. - All laws, decrees, executive orders, rules and regulations, issuances or any parts thereof inconsistent with the provisions of this Act are deemed repealed or amended accordingly.

SECTION 17. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,