

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

FIFTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 830

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Introduced by Honorable Pedro P. Romualdo

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**EXPLANATORY NOTE**

The right of the Filipino people to information on matters of public concern is enshrined in the following Articles of the 1987 Philippine Constitution, to wit:

*"Article II. 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.*

*Article III. 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 rationale of these twin-provisions of the Constitution is to promote transparency in government policies and operations and provide the public sufficient information on the affairs of the government. In *Chavez vs. National Housing Authority*, promulgated on August 15, 2007, the Supreme Court elucidated that only negotiations leading to the consummation of the transaction and the contents of perfected contract can be covered by these provisions.

This is not an encompassing and blanket power given to the public for its exercise is also subject to limitations, restrictions and prohibitions such as: non-disclosure of intra-agency or inter-agency recommendations or communications where the process is still being explored, privileged communication involving national security, diplomatic and military secrets, intelligence reports, classified information and foreign relations, or if the non-disclosure outweighs the public interest.

We should not allow unscrupulous individuals whose aims are to overthrow the government, however, to sow chaos and increase the discontent of the public by allowing them access to vital information which they can distort, manipulate or

misinterpret in presenting to the public. Let us not allow self-enterprising individuals or organizations in the guise of "public interest" to use basic information to exact ransom, extort money or property, coerce government in changing its policies to conform to their whims, caprices and syndicated acts, and to harass people in government. Hence, this measure provides restrictions on the right to access information.

While the 14<sup>th</sup> Congress version of the Freedom of Information Bill only applies to government agencies, this proposed measure places the government agencies on equal footing with the private institutions. Both are laden with public interest and the public has been clamoring for a clear system in accessing information from both the government sector and private sector, as well. The business activities of the private sector are also the lifeblood of the government and it is only fitting that the public be given an opportunity to access basic information about our private institutions.

The presumption of the right to access information is clear: it dwells on the public or the requesting party to prove that the government is not practicing transparency and openness in its transactions. Acts of government, in particular by the Presidency, are presumed to be consistent and in conformity with the 1987 Constitution. The same way with private institutions, it is in the best interest of their business or entity that their actions and decisions are based on transparency and those should be done within the confines of existing laws, policies and rules.

It is incumbent upon us to protect the sanctity of government service and push for transparency and good governance in government service. It also behooves upon the private sector to do the same thing and not be cajoled or hide under the cloak of public interest.

In view thereof, approval of this bill is earnestly recommended.



PEDRO P. ROMUALDO

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AN ACT  
UPHOLDING THE CONSTITUTIONAL RIGHTS OF THE PEOPLE TO  
INFORMATION 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:*

CHAPTER I

General Provisions

SECTION 1. *Short Title.* – This Act shall be known as the “*Right to Access  
Information Act of 2010.*”

SEC. 2. *Declaration of Policy.* – The State recognizes the right of every  
Filipino to access vital information as enshrined in the fundamental law of the land  
subject to certain regulations and limitations to uphold national sovereignty, in the  
interest of national security, and respect for international commitments including  
treaties and covenants.

The State also recognizes the right of the public to access vital information  
from private institutions in the interest of transparency and sound management.

In the exercise of this right, it is primordial that the party in interest shall not  
use the information to harass, extort, cause chaos, sow confusion and distort the

presentation of basic and vital facts which will cause and affect the integrity of our organic public institutions and adversely affect commercial interests of private institutions including those serving these institutions.

SEC. 3. *Coverage.* – Consistent with the provisions of the Constitution, this Act shall apply to all government agencies including government owned or controlled corporations and private institutions including the media.

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

a. *Information* means any record, document, report, contract, minutes of meetings, transcript of records, maps, books, photograph, film, video or audio recording, electronic data, computer stored data, or other similar data or material, stored or archived in whatever format, which are made, kept or received or under the control and custody of any government agency and private institutions pursuant to law, executive order, rules and regulations, ordinance or in connection with the performance or transactions of official business by any government agency, or any private institution;

b. *Government Agency* includes the executive, legislative and judicial branches of the government as well as the 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, state universities and colleges, the Armed Forces

of the Philippines, the Philippine National Police and those agencies established by law;

c. *Official Records* refer to information produced or received by a public officer or employee, or by a government agency in an official capacity or pursuant to a public function or duty, and is not meant to be a stage or status of the information;

d. *Private Institutions* refer to business establishments, non-government agencies, people's organizations, private associations and other entities that are registered or licensed with the Department of Trade and Industry, Securities and Exchange Commission, Board of Investments, Philippine Economic Zone Authority, Philippine Stock Exchange, National Telecommunications Commission, and such other private entities recognized by government regulatory bodies; and

e. *Public Records* include information required by law, executive orders, rules, or regulations to be entered, kept and made publicly available by a government agency.

## CHAPTER II

### **Provisions Pertaining to Government Institutions**

SEC. 5. *Duty of Government Agencies.* – All government agencies are required to post in their websites and in their bulletin boards general information, regular updates and pertinent information about their operational activities and special projects.

SEC. 6. *Exceptions to Access of Information.* – Exceptions to general access of information are:

- a. Information, data or communications that are classified as provided in Section 7 of this Act;
- b. Information that affects the national sovereignty and territoriality consistent with the provisions of the Constitution or decisions of the Supreme Court;
- c. Information that are covered by executive privilege;
- d. Information that are covered by legislative immunity and privileged communication;
- e. Information that affects our national sovereignty;
- f. Information that undermines our national security and may hamper the capability and effectiveness of the Armed Forces of the Philippines and Philippine National Police and its subsidiary agencies in the prevention or detection of crimes, apprehension or prosecution of offenders and in the administration of justice;
- g. Information that may prejudice existing treaties, international covenants and which may affect the interest of the Republic of the Philippines abroad;
- h. Information that may result to intentional invasion and violation of privacy the disclosure of which would undermine the integrity and reputation of government officials and personnel;
- i. Information that affects the economic interest of the Republic of the Philippines within and outside the country;
- j. Information that affects the outcome of an on-going investigation in the Department of Justice, Ombudsman and the Judicial Department and Constitutional Commissions;

k. Information that consists of court records which requires confidentiality such as those that affect family members and minors or children-in-conflict with the law, and similar cases;

l. Information that consists of audit information of on-going inquiry or examination;

m. Information that may hamper the implementation of immigration controls and border security; and

n. Information that may prejudice the effective conduct of public affairs.

SEC. 7. *Classified Information.* – Classified information shall carry the following designations:

a. *Top Secret.* – Information, material or matter the unauthorized disclosure of which will cause exceptional damage to the nation politically, economically, or from security aspect.

b. *Secret.* – Information, material or matter the unauthorized disclosure of which will endanger the national security, cause serious injury to the interest or prestige of the nation or of any governmental activity or cause great advantage to a foreign nation.

c. *Confidential.* – Information, material or matter the unauthorized disclosure of which, while not endangering the national security, will be prejudicial to the interest or prestige of the nation or any government activity, or will cause administrative embarrassment or unwarranted injury to an individual or will give advantage to a foreign nation.

d. *Restricted.* – Information, material or matter which requires special protection other than that determined to be top secret, secret or confidential.

### CHAPTER III

#### Provisions Applicable to Private Institutions

SEC. 8. *Duty of Private Institutions.* – All private institutions registered in the Securities and Exchange Commission, the Board of Investments, Department of Trade and Industry, Philippine Economic Zone Authority, National Telecommunications Commission, non-government agencies, people's organizations and other entities recognized by regulatory government agencies shall be required to post in their websites and bulletin boards regular updates and pertinent information about their business, except on matters involving:

- a. Trade secrets;
- b. On-going business negotiations and plans;
- c. Other business interests that may affect their financial standing, if divulged prematurely.

SEC. 9. *Exception to Disclosure of Information.* – The Congress may require the submission of vital and confidential documents and information through the issuance of subpoena *duces tecum* for the production of a certified true copy of the documents and *subpoena ad testificandum* to call upon a witness which can elucidate on the information on the requisite documents consistent with its rules and existing policies with the end in view of using this information to craft possible legislation or to comply with its oversight functions.

The Judiciary, in pursuit of justice, due process and fair play, may require the disclosure of these information consistent with the Rules of Courts and jurisprudence with the end in view of expediting the disposition of cases.

## CHAPTER IV

### **Common Provisions and Procedure in Accessing Information**

SEC. 10. *Rights of the Requesting Party.* – The requesting party has the right to access information from government agencies and private institutions through a request in writing, either by electronic mail, by post or in person, and must state clearly the reasons for accessing the documents or communications being requested. It shall also sign a waiver that the information or communication from the government agency or private institution will not be used for propaganda or media mileage or will not be in violation of any provisions of this Act.

The requesting party must also be willing to pay reasonable reproduction fees for the documents being requested which can be claimed in person or through an authorized representative duly presenting valid identification and a written authorization form.

In case of voluminous documents and electronic formats, the government agency has the option to release it on either hard copy or soft copy with approval of the head of agency or private entity.

SEC. 11. *Contents of Request.* – Any person requesting any information from a government agency or private institution shall provide the following:

- a. Name and contact details of the requesting party;
- b. Specific documents being requested;

- c. Specific purpose and application of the documents being accessed; and
- d. A signed waiver that any information gathered after prior access is allowed will not be used for propaganda or media mileage.

SEC. 12. *Responsibility of the Government Agency or Private Institution.* –

The government agency and private institution shall evaluate and determine the true intent of the requesting party and may approve if the request is:

- a. Complete as to form and purpose;
- b. Consistent with the provisions of this Act;
- c. In case of court record, not violative of the rule on *sub judice*;
- d. Not frivolous in nature;
- e. Not malicious in character; and
- f. In conformity with existing policies of the agency.

The government agency or private institution may, however, deny the request if it appears upon its face that the request is whimsical or frivolous.

The requesting party shall be informed within fifteen (15) working days upon receipt of the application of the status of the request to access information either by post or electronic means. It shall cite the applicable reason for its approval or denial. If approved, it shall state the date when the documents will be made available and the person authorized to release said documents. It shall also state the fees to be paid for the reproduction of the documents and the procedure of payment which may be made either through banks or in cash.

If the request is denied, the government agency shall state the reason for its denial and specify the applicable exemption. Failure on the part of the requesting party to clearly identify the documents requested and to provide the necessary

information on the requesting form will automatically result in the denial of the request in writing and shall be considered sufficient compliance by the government agency with the provisions of this Act. The authorized personnel shall have no liability whatsoever for the failure of the party requesting the information to state the complete details of his request.

The government agency shall not entertain a subsequent identical or substantially similar request from the same person or from his or her organization or office, if it is found from the records that such request was already granted to the same party or parties within one year from the filing of a previous request.

In case no decision has been reached on the request, the government agency shall indicate the reason and must state the approximate working date by which the agency expects that such decision shall be reached.

The burden of proof that the information being requested is not covered under Sections 6 or 7 hereof rest solely on the requesting party. The only remedy available to him or her is to go to court and submit substantive proof or evidence that the information does not fall under Sections 6 or 7 of this Act.

## **CHAPTER V**

### **Penal Provisions**

#### **SEC. 13. *Sanctions Against Erring Personnel of Government Agencies.* –**

The following penalties and fines shall be imposed on any erring authorized personnel of the government who will not comply with the provisions of this Act:

- a. Any public official or personnel who delays the retrieval and release of the information required shall be punished with a suspension of one (1) month

without pay, subject to the rules on administrative suspension and due process and shall also shoulder the reproduction fees of the information requested;

b. Any public official or personnel who refuses to comply with this Act for two or more times shall be punished with a suspension of two (2) months without pay, subject to the rules on administrative suspension and due process and shall also shoulder the reproduction fees of the information requested;

c. Any public official or personnel who divulge any information that is covered by the exceptions to general disclosure rule provided in Section 6 hereof, shall be dismissed from the service and shall be punished with perpetual disqualification from the service and shall not be entitled to any benefits whatsoever;

d. Any public official or personnel who conceals, fabricates or willingly withholds vital information not covered under Section 6 hereof, shall be dismissed from the service and shall be punished with perpetual disqualification from the service and shall not be entitled to any benefits whatsoever.

The erring personnel may file an appeal at the Civil Service Commission on his suspension or dismissal from the service.

The requesting party has the prerogative to file a separate case at the Ombudsman against the erring personnel.

SEC. 14. *Sanctions Against Erring Personnel of Private Institutions.* – Authorized personnel of private institutions shall be subjected to their internal rules on suspension and dismissal from service for acts of dishonesty, negligence and

excessive delay in attending to the request to access information. The erring personnel shall also be liable as follows:

a. Any erring personnel of the private institution shall be punished with a fine of Five thousand pesos (₱5,000.00) for failure to act timely on a valid request for information and such fine will be automatically deductible from his salary after due process has been complied with. He shall also shoulder the cost of reproduction of said information;

b. Any erring personnel of the private institution shall be punished with a fine of Ten thousand pesos (₱10,000.00) for repeatedly refusing to process the request which does not fall under Section 6 of this Act, such amount to be deducted automatically from his salary after due process has been complied with. He shall also shoulder the cost of reproduction of said information.

c. Any erring personnel shall be punished with a fine of Twenty thousand pesos (₱20,000.00) but not more than Fifty thousand pesos (₱50,000.00) if the court finds that he has concealed or withheld vital information that is not covered under the exceptions provided in Section 6 hereof;

d. Any erring personnel shall be punished with a fine of Fifty thousand pesos (₱50,000.00) but not more than One hundred thousand pesos (₱100,000.00) if the court finds that he has fabricated or manufactured the information released to the requesting party;

e. The private institution, through its president, chief executive officer, treasurer or any other responsible officer, shall be liable for the acts of its personnel and shall be subject to suspension of license, franchise or local permits if

found by the courts to have violated any provision of this Act and was in connivance with its authorized personnel for the concealment, fabrication or withholding of vital information and shall also be subject to a fine of Five hundred thousand pesos (₱500,000.00) but not more than Two million pesos (₱2,000,000.00).

SEC. 15. *Sanctions Against Any Person for the Misuse, Abuse, Exploitation or Mistreatment of Information.* – Any person found to have misuse, abuse, exploit, mistreat, distort, negligent in handling the information, or deliberately withhold vital information released under this Act by any government agency or private institution shall be punished with:

- a.) a fine of Fifty thousand pesos (₱50,000.00) but not more than one hundred thousand pesos (₱100,000.00) for its first offense;
- b.) a fine of one hundred thousand pesos (₱100,000.00) but not more than two hundred thousand pesos (₱200,000.00) for its second offense;
- c.) a fine of two hundred thousand pesos (₱200,000.00) but not more than five hundred thousand pesos (₱500,000.00) for its third offense and perpetual disqualification in government service for its dishonesty.

The chairman, president or chief executive officer, or any other responsible officer of the company or business entity of the requesting party or end-user of the information, shall be liable for the acts of its personnel and shall be subject to:

a.) suspension of license, franchise or local permits if found by the courts to have violated any provision of this Act and was in connivance with its authorized personnel for the misuse, abuse, exploitation, mistreatment, or deliberately withholding of vital information and shall also be subject to a fine of One hundred thousand pesos (₱100,000.00) but not more than Two hundred thousand pesos (₱200,000.00) for its first offense;

b.) one (1) year suspension of license, franchise or local permits if found by the courts to have violated any provision of this Act and was in connivance with its authorized personnel for the misuse, abuse, exploitation, mistreatment, or deliberately withholding of vital information and shall also be subject to a fine of One hundred thousand pesos (₱100,000.00) but not more than Two hundred thousand pesos (₱200,000.00);

c.) revocation of license, franchise or local permits if found by the courts to have violated any provision of this Act and was in connivance with its authorized personnel for the misuse, abuse, exploitation, mistreatment, or deliberately withholding of vital information and shall also be subject to a fine of Two hundred thousand pesos (₱200,000.00) but not more than Five hundred thousand pesos (₱500,000.00).

SEC. 16. *Fines Collected.* – The fines collected under Sections 13 and 14 shall be placed in a trust fund under the Department of Education which shall be exclusively used for the purchase of chairs and computer equipment for public elementary and secondary schools in sixth class municipalities in the country. Proper disposition of funds under existing accounting and auditing rules shall apply. The Department of Budget and Management, the Department of Education and a representative from the Judicial Department shall draft the implementing rules and regulations on this Section.

## CHAPTER VI

### Implementation Stage

SEC. 17. *Implementation Requirements.* – For the effective implementation of this Act, all government agencies and private institutions shall prepare a manual on information access to properly guide the agency and the public on the procedure on how to obtain information.

The manual shall include the following vital information:

- a. The location, contact details of the government agency or private institution and its organizational structure and the proper person in authority to lodge the request;
- b. The mission statement, character and nature of service or business of the government agency or private institution;
- c. A description of the record-keeping system and the persons or office that will handle the implementation of this Act;

- d. Detailed procedure as to how to access the information and the process of facilitating the request;
- e. Schedule of fees and payment procedures; and
- f. Such other information that will guide and direct the public in their request to access information.

SEC. 18. *Schedule of Implementation.* The provisions of this Act shall be fully implemented after a period of three (3) years from the approval of this Act. All existing policies of government agencies and private institutions in the access and retrieval of documents and information shall remain in full force.

During the three (3) year period from the approval of this Act, all government agencies and private institutions shall complete and publish their manual of procedures. It shall also establish, if inexistent at this time, an office in the records bureau or department which will handle the request, retrieval of information and release of information to comply with the provisions of this Act.

The budget for the manual and additional personnel will be charged to the current budget of the government agency on the year this Act is approved. On subsequent years, the staff requirement shall be incorporated in the regular budget of the agency.

All private entities are given the leeway to use its resources to comply with this Act and charge the same in accordance with existing accounting and auditing rules and regulations.

## **CHAPTER VII**

### **Final Provisions**

SEC. 19. *Separability Clause.* – If, for any reason, any section or provision of this Act is held unconstitutional or invalid, the provisions not affected thereby shall remain in full force and effect.

SEC. 20. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Act, particularly Section 3, Rule IV of the Rules Implementing Republic Act No. 6713, otherwise known as the “*Code of Conduct and Ethical Standards for Public Officials and Employees*,” are deemed repealed, or modified accordingly.

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

Approved,