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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress
Third Regular Session

COMMITTEE REPORT NO. 2535

Submitted by the **COMMITTEE ON PUBLIC INFORMATION** on 17 DEC 2012

Re : House Bill No. 6766

Recommending its approval in substitution of **House Bill Nos. 11, 22, 53, 59, 86, 133, 301, 830, 1713, 1968, 2128, 2969, 4252, 4851 and 6555 and Petition No. 0002**

Sponsors: **Reps. Ben P. Evardone, Lorenzo R. Tañada III, Rodolfo G. Biazon, Marcelino "Marcy" R. Teodoro, Karlo Alexei B. Nograles, Juan Edgardo "Sonny" M. Angara, Teddy A. Casiño, Neri Javier Colmenares, Walden F. Bello, Kaka J. Bag-ao, Sergio A.F. Apostol, Rachel Marguerite B. Del Mar, Winston T. Castelo, Sherwin N. Tugna, Joseph Victor G. Ejercito, Bernadette Herrera-Dy and Cinchona Cruz-Gonzales**

MR. SPEAKER:

The Committee on Public Information to which were referred:

House Bill No. 11, authored by Rep. Rodolfo G. Biazon, entitled:

AN ACT
IMPLEMENTING THE RIGHT OF THE PEOPLE TO INFORMATION ON MATTERS OF PUBLIC CONCERN GUARANTEED UNDER SECTION SEVEN, ARTICLE III OF THE 1987 CONSTITUTION AND THE STATE POLICY OF FULL PUBLIC DISCLOSURE OF ALL ITS TRANSACTIONS INVOLVING PUBLIC INTEREST UNDER SECTION TWENTY-EIGHT, ARTICLE II OF THE 1987 CONSTITUTION, AND FOR OTHER PURPOSES

House Bill No. 22, authored by Rep. Marcelino "Marcy" R. Teodoro, entitled:

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

House Bill No. 53, authored by Rep. Lorenzo R. Tañada III, entitled:

AN ACT
IMPLEMENTING THE RIGHT OF THE PEOPLE TO INFORMATION ON MATTERS OF
PUBLIC CONCERN GUARANTEED UNDER SECTION SEVEN, ARTICLE III OF THE
1987 CONSTITUTION AND THE STATE POLICY OF FULL PUBLIC DISCLOSURE OF
ALL ITS TRANSACTIONS INVOLVING PUBLIC INTEREST UNDER SECTION TWENTY-
EIGHT, ARTICLE II OF THE 1987 CONSTITUTION,
AND FOR OTHER PURPOSES

House Bill No. 59, authored by Rep. Karlo Alexei B. Nograles, entitled:

AN ACT
IMPLEMENTING THE RIGHT OF THE PEOPLE TO INFORMATION ON MATTERS OF
PUBLIC CONCERN GUARANTEED UNDER SECTION SEVEN, ARTICLE III OF THE
1987 CONSTITUTION AND THE STATE POLICY OF FULL PUBLIC DISCLOSURE OF
ALL ITS TRANSACTIONS INVOLVING PUBLIC INTEREST UNDER SECTION TWENTY-
EIGHT, ARTICLE II OF THE 1987 CONSTITUTION,
AND FOR OTHER PURPOSES

House Bill No. 86, authored by Rep. Juan Edgardo "Sonny" M. Angara, entitled:

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

House Bill No. 133, authored by Reps. Teddy A. Casiño and Neri Javier Colmenares, entitled:

AN ACT
TO ENSURE PUBLIC ACCESS TO OFFICIAL RECORDS, DOCUMENTS AND ANY
OTHER INFORMATION OF PUBLIC CONCERN

House Bill No. 301, authored by Reps. Walden F. Bello and Kaka J. Bag-ao, entitled:

AN ACT
IMPLEMENTING THE RIGHT OF THE PEOPLE TO INFORMATION ON MATTERS OF
PUBLIC CONCERN GUARANTEED UNDER SECTION SEVEN, ARTICLE III OF THE
1987 CONSTITUTION AND THE STATE POLICY OF FULL PUBLIC DISCLOSURE OF
ALL ITS TRANSACTIONS INVOLVING PUBLIC INTEREST UNDER SECTION TWENTY-
EIGHT, ARTICLE II OF THE 1987 CONSTITUTION,
AND FOR OTHER PURPOSES

House Bill No. 830, authored by Rep. Pedro P. Romualdo, entitled:

AN ACT UPHOLDING THE CONSTITUTIONAL RIGHTS OF THE PEOPLE TO
INFORMATION ON MATTERS OF PUBLIC CONCERN
AND FOR OTHER PURPOSES

House Bill No. 1713, authored by Rep. Sergio A.F. Apostol, entitled:

**AN ACT
IMPLEMENTING THE RIGHT OF ACCESS TO INFORMATION
ON MATTERS OF PUBLIC INTEREST AS GUARANTEED UNDER SECTION TWENTY-
EIGHT, ARTICLE II AND SECTION SEVEN, ARTICLE III OF THE 1987 CONSTITUTION,
AND RECOGNIZING THE PROTECTION OF PRIVACY AS GUARANTEED UNDER
SECTIONS TWO AND THREE, ARTICLE III OF THE 1987 CONSTITUTION, AND FOR
OTHER PURPOSES**

House Bill No. 1968, authored by Rep. Rachel Marguerite B. Del Mar, entitled:

**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**

House Bill No. 2128, authored by Rep. Winston T. Castelo, entitled:

**AN ACT
IMPLEMENTING THE RIGHT OF THE PEOPLE TO INFORMATION ON MATTERS OF
PUBLIC CONCERN AND THE STATE POLICY OF FULL PUBLIC DISCLOSURE OF ALL
ITS TRANSACTIONS INVOLVING PUBLIC INTEREST AND FOR OTHER PURPOSES**

House Bill No. 2969, authored by Rep. Salvador H. Escudero III, entitled:

**AN ACT
IMPLEMENTING THE RIGHT OF THE PEOPLE TO INFORMATION ON MATTERS OF
PUBLIC CONCERN GUARANTEED UNDER SECTION SEVEN, ARTICLE III OF THE
1987 CONSTITUTION AND THE STATE POLICY OF FULL PUBLIC DISCLOSURE OF
ALL ITS TRANSACTIONS INVOLVING PUBLIC INTEREST UNDER SECTION TWENTY-
EIGHT, ARTICLE II OF THE 1987 CONSTITUTION,
AND FOR OTHER PURPOSES**

House Bill No. 4252, authored by Rep. Rodolfo W. Antonino, entitled:

**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**

House Bill No. 4851, authored by Rep. Sherwin N. Tugna, entitled:

**AN ACT
IMPLEMENTING THE RIGHT OF THE PEOPLE TO INFORMATION ON MATTERS OF
PUBLIC CONCERN GUARANTEED UNDER SECTION SEVEN, ARTICLE III OF THE
1987 CONSTITUTION AND THE STATE POLICY OF FULL PUBLIC DISCLOSURE OF
ALL ITS TRANSACTIONS INVOLVING PUBLIC INTEREST UNDER SECTION TWENTY-
EIGHT, ARTICLE II OF THE 1987 CONSTITUTION,
AND FOR OTHER PURPOSES**

House Bill No. 6555, authored by Rep. Joseph Victor G. Ejercito, entitled:

**AN ACT
TO STRENGTHEN THE RIGHT OF CITIZENS TO INFORMATION
HELD BY THE GOVERNMENT**

and **Petition No. 0002**, introduced by Ang Kapatiran Party, Through Indirect Initiative Under Sections 3(B) and 11 of Republic Act No. 6735 (Initiative and Referendum Act), entitled:

**AN ACT
PRESCRIBING THE CONDITIONS AND LIMITATIONS TO ENFORCE:
1) THE STATE POLICY MANDATING FULL PUBLIC DISCLOSURE OF ALL ITS
TRANSACTIONS INVOLVING PUBLIC INTEREST (SEC. 28, ART. II OF THE 1987
CONSTITUTION); AND
2) THE STATE POLICY RECOGNIZING THE RIGHT OF THE PEOPLE TO ACCESS
OFFICIAL RECORDS, DOCUMENTS, AND PAPERS PERTAINING TO OFFICIAL ACTS,
TRANSACTIONS, AND DECISIONS OF GOVERNMENT, AS WELL AS GOVERNMENT
RESEARCH DATA USED FOR POLICY DEVELOPMENT (SEC. 7, ART. III, 1987
CONSTITUTION);
PROVIDING PENALTIES FOR VIOLATION THEREOF, AND FOR OTHER PURPOSES,
OTHERWISE KNOWN AS THE FREEDOM OF INFORMATION ACT OF 2011**

6766

has considered the same and recommends that the attached House Bill No. _____, entitled:

**AN ACT
TO STRENGTHEN THE RIGHT OF CITIZENS TO INFORMATION
HELD BY THE GOVERNMENT**

be approved in substitution of House Bill Nos. 11, 22, 53, 59, 86, 133, 301, 830, 1713, 1968, 2128, 2969, 4252, 4851 and 6555 and Petition No. 0002 with Representatives Rodolfo G. Biazon, Marcelino "Marcy" R. Teodoro, Lorenzo R. Tañada III, Karlo Alexei B. Nograles, Juan Edgardo "Sonny" M. Angara, Teddy A. Casiño, Neri Javier Colmenares, Walden F. Bello, Kaka J. Bag-ao, Pedro P. Romualdo, Sergio A.F. Apostol, Rachel Marguerite B. Del Mar, Winston T. Castelo, Salvador H. Escudero III, Rodolfo W. Antonino, Sherwin N. Tugna, Joseph Victor G. Ejercito, Ben P. Evardone, Bernadette Herrera-Dy, Cinchona Cruz-Gonzales, Ma. Victoria R. Sy-Alvarado and Jim Hataman-Salliman as authors thereof.

Respectfully submitted:



BEN P. EVARDONE

Chairman

Committee on Public Information

THE HONORABLE SPEAKER
House of Representatives
Quezon City

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

Fifteenth Congress
Third Regular Session

House Bill No. **6766**

Introduced by Reps. Biazon, Teodoro, Tañada, Nograles, Angara, Casiño, Colmenares,
Bello, Bag-ao, Romualdo, Apostol, Del Mar, Castelo, Escudero, Antonino, Tugna,
Ejercito, Evardone, Herrera-Dy, Cruz-Gonzales, Sy-Alvarado and Hataman-Salliman

**AN ACT TO STRENGTHEN THE RIGHT OF CITIZENS
TO INFORMATION HELD BY THE GOVERNMENT**

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

1 **SECTION. 1. Short Title.** – This Act shall be known as the “Freedom of Information
2 Act of 2012.”

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

9 **SEC. 3. Coverage.** – This Act shall cover government agencies. Government agencies
10 refers to the executive, legislative and judicial branches as well as the constitutional
11 bodies of the Republic of the Philippines including, but not limited to, the national
12 government and all its agencies, departments, bureaus, offices and instrumentalities,
13 constitutional commissions and constitutionally mandated bodies, local governments and
14 all their agencies, regulatory agencies, chartered institutions, government-owned or –
15 controlled corporations, including wholly-owned or controlled subsidiaries, government
16 financial institutions, state universities and colleges, the Armed Forces of the Philippines,
17 the Philippine National Police, all offices in the Congress of the Philippines including the
18 offices of Senators and Representatives, the Supreme Court and all lower courts
19 established by law.

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

1 (a) **Information** refers to data that have been processed into a record, document, paper,
2 report, letter, contract, minutes and transcripts of official meetings, maps, books,
3 photographs, data, research materials, in whatever form, or films, sound and video
4 recordings, magnetic or other tapes, electronic data, in whatever format, which are made,
5 received or kept in or under the control and custody of any government agency pursuant
6 to law, executive order, rules and regulations, ordinance or in connection with the
7 performance or transaction of official business by any government agency.

8 (b) **Official record** refers to information produced or received by a public officer or
9 employee, or by a government agency in an official capacity or pursuant to a public
10 function or duty. This shall not refer to the stage or status of the information.

11 (c) **Public record** refers to information required by law, executive orders, rules, or
12 regulations to be entered, kept and made publicly available by a government agency.

13 **SEC. 5 . Access to Information.** – Every person who is a Filipino citizen has a right to
14 and shall, on request, be given access to any record under the control of a government
15 agency. Government agencies shall make available to the public for scrutiny, copying and
16 reproduction in the manner provided by this Act, all information pertaining to official
17 acts, transactions or decisions, as well as government research data used as a basis for
18 policy development, subject to the exceptions enumerated under Section 7 of this Act,
19 regardless of their physical form or format in which they are contained and by whom they
20 were made.

21 **SEC. 6. Presumption.** – There shall be a legal presumption in favor of access to
22 information. The request for information may be denied only if it clearly falls under the
23 exceptions provided under this Act.

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

25 (a) The information is specifically authorized to be kept Secret under guidelines
26 established by an executive order, and in fact properly classified pursuant thereto:
27 *Provided*, That 1) The information directly relates to national security or defense and
28 its revelation may cause grave damage to the national security or internal and external
29 defense of the State; or 2) The information requested pertains to the foreign affairs of
30 the Republic of the Philippines, when its revelation shall unduly weaken the
31 negotiating position of the government in an ongoing bilateral or multilateral
32 negotiation or seriously jeopardize the diplomatic relations of the Philippines with
33 one or more states: *Provided further*, That the executive order shall specify the
34 reasonable period after which the information shall be automatically declassified or
35 subject to mandatory declassification review, and that any reasonable doubt as to
36 classification and declassification shall be settled in favor of the right to information;

37 (b) The information consists of records of minutes and advice given and opinions
38 expressed during decision-making or policy formulation, invoked by the Chief
39 Executive to be privileged by reason of the sensitivity of the subject matter or of the

1 impairment of the Chief Executive's deliberative process that would result from the
2 disclosure thereof. Once policy has been formulated and decisions made, minutes and
3 research data may be made available for disclosure unless they were made in
4 executive session;

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

7 (i) unduly compromise or interfere with any legitimate military or law
8 enforcement operation; or

9 (ii) unduly compromise or interfere with the prevention, detection or
10 suppression of criminal activity, the effective implementation of
11 immigration controls and border security; or

12 (iii) deprive a person of a right to a fair trial or an impartial adjudication; or

13 (iv) lead to the disclosure of the identity of a confidential source, including a
14 government, or foreign agency or authority or any private institution
15 which furnished information on a confidential basis, and, in the case of a
16 record or information compiled by a law enforcement authority in the
17 course of an investigation or by an agency conducting a lawful national
18 security intelligence investigation, information furnished by a confidential
19 source; or

20 (v) disclose techniques and procedures for law enforcement investigations or
21 prosecutions, or would disclose guidelines for law enforcement
22 investigations or prosecutions if such disclosure could reasonably be
23 expected to risk circumvention of the law; or

24 (vi) endanger the life or physical safety of any individual;

25 (d) The information requested consists of drafts of orders, resolutions, decisions,
26 memoranda or audit reports by any executive, administrative, regulatory,
27 constitutional, judicial or quasi-judicial body in the exercise of their regulatory, audit
28 and adjudicatory function;

29 (e) The information requested is obtained by any committee of either House of Congress
30 in executive session;

31 (f) The information requested pertains to the personal information of a natural person
32 other than the requesting party, and its disclosure would clearly constitute an
33 unwarranted invasion of one's personal privacy, unless it forms part of a public
34 record, or the person is or was an official of a government agency and the information
35 relates to the public function or the person has consented in writing to the disclosure
36 of the information;

1 (g) The information requested pertains to trade secrets and commercial or financial
2 information obtained from a natural or juridical person other than the requesting
3 party, or obtained in confidence or covered by privileged communication, and filed
4 with a government agency, whenever the revelation thereof would seriously prejudice
5 the interests of such natural or juridical person in trade, industrial, financial or
6 commercial competition;

7 (h) The information is classified as privileged communications in legal proceedings by
8 law or by the Rules of Court;

9 (i) The information requested is exempted by law or the Constitution, in addition to
10 those provided in this section; and

11 (j) The information has already been made accessible as provided for in Section 10.

12 For paragraphs (c) to (j) of this section, the determination whether any of these grounds
13 shall apply shall be the responsibility of the head of office of the government agency in
14 custody or control of the information, or any responsible central or field officer/s duly
15 designated by him:

16 *Provided, That:*

17 1. The exceptions are strictly construed;

18 2. The exceptions are not used to cover-up a crime, wrongdoing, graft, or corruption;

19 3. Whenever the information covered by an exception may be reasonably severed from
20 a record, the record shall be released with the exempt information redacted, or the
21 information not covered by the exception shall otherwise be communicated to the
22 requesting party;

23 4. The President, the Supreme Court, the Senate, the House of Representatives, and the
24 Constitutional Commissions may waive an exception with respect to information in
25 the custody of offices under their respective supervision or control, when they deem
26 that there is an overriding public interest in disclosure; and

27 5. The exceptions do not constitute authority to withhold information from Congress,
28 nor authority for the executive branch of a local government unit to withhold
29 information from the legislative body of such local government unit.

30 **SEC. 8. *Mandatory Disclosure of Information.*** – (a) In fulfillment of Article XI, Section
31 17 of the Constitution the following national officials shall provide to the public, through
32 the websites of their respective offices, their Statement of Assets, Liabilities, and Net
33 worth (SALN) on an annual basis:

- 1 (1) the President;
- 2 (2) the Vice- President;
- 3 (3) the Members of the Cabinet;
- 4 (4) the Members of the Senate and the House of Representatives;
- 5 (5) the Justices of the Supreme Court;
- 6 (6) the Commissioners of the Constitutional Commissions and other
- 7 constitutional offices; and
- 8 (7) the officers of the Armed Forces with the rank of general or the equivalent
- 9 flag rank.

10 (b) All agencies of all branches of government shall publish on their websites and update
11 on a monthly basis, a register of the following:

- 12 (i) Freedom of Information Manual in full;
- 13 (ii) Rules of Procedure, descriptions of forms available or the places at which
- 14 forms may be obtained, and instructions as to the scope and contents of all papers,
- 15 reports, or examinations;
- 16 (iii) Substantive rules of general applicability adopted as authorized by law, and
- 17 statements of general policy or interpretations of general applicability formulated
- 18 and adopted by the agency, including subsequent amendments;
- 19 (iv) Public interest documents or records, including:
 - 20 (1) Annual Budget of Government Agencies
 - 21 (2) Itemized Monthly Collections and Disbursement
 - 22 (3) Summary of Income and Expenditures
 - 23 (4) Component of the Internal Revenue Allotment (IRA) Utilization
 - 24 (5) Annual Procurement Plan and Procurement List
 - 25 (6) Items for Bidding
 - 26 (7) Bid Results on Civil Works, and Goods and Services
 - 27 (8) Abstract of Bids as Calculated

- 1 (9) Procurement contracts entered into by a government agency
- 2 (10) Construction or concession agreements or contracts entered into by
- 3 a government agency with any domestic or foreign person or entity;
- 4 (11) Private sector participation agreements or contracts in
- 5 infrastructure and development projects under Republic Act No. 6957
- 6 otherwise known as the Philippine BOT Law, as amended by Republic
- 7 Act No. 7718;
- 8 (12) Public funding extended to any private entity;
- 9 (13) Bilateral or multilateral agreements and treaties in trade, economic
- 10 partnership, investments, cooperation and similar binding commitments;
- 11 (14) List of persons or entities who were granted licenses, permits or
- 12 agreements for the extraction and/or utilization of natural resources given
- 13 by any government agency;
- 14 (15) Projects identified by legislators pursuant to any Congressional
- 15 allocations, including the Priority Development Assistance Fund, the
- 16 Financial Subsidy to Local Government Units, the Regular Congressional
- 17 Allocation for infrastructure projects under the Department o Public
- 18 Works and Highways, Congressional Insertions, and other similar
- 19 Congressional allocation modalities;
- 20 (16) Statement of Assets and Liabilities of the public officers of the
- 21 government agency; and
- 22 (17) Guarantees given by any government agency to government-
- 23 owned or -controlled corporations and to private corporations, persons or
- 24 entities.

25 The register shall contain a brief description of the transaction involved, including, but
26 not limited to: the nature and object of the transaction, the parties and amounts involved,
27 the key steps undertaken towards its conclusion, and the relevant dates provided that
28 contracts and agreements involving an amount of at least Fifty Million Pesos
29 (P50,000,000.00) shall be published in full on the website of the concerned government
30 agency or the Official Gazette Online subject to the succeeding section. A covered record
31 shall be enrolled in the register not later than 30 working days from its perfection or
32 issuance.

33 (c) All government agencies shall, over time, endeavor and build the capacity and
34 practice to publish in full all other contracts, agreements, or treaties covered under this
35 Section, specially those that are of the highest public interest by reason of the amounts

1 involved and the impact of the transaction to the public. All government agencies must
2 ensure that they have a compliant website within two (2) years from the effectivity of this
3 Act.

4 (d) Should an agency lack the capacity to comply with the website publication
5 requirement of this Section, the agency shall initiate a capacity-building program,
6 coordinate with another appropriate agency, or use an alternative mechanism, to facilitate
7 substantive compliance not later than three (3) years from the effectivity of this Act.

8 **SEC. 9. *Promotion of Openness in Government.*** – (a) Duty to Publish Information –
9 Government agencies shall regularly publish, print and disseminate at no cost to the
10 public and in an accessible form, in conjunction with Republic Act 9485, or the Anti-Red
11 Tape Act of 2007, and through their website, timely, true, accurate and updated key
12 information including, but not limited to:

13 (1) A description of its mandate, structure, powers, functions, duties and decision-
14 making processes;

15 (2) A description of the frontline services it delivers and the procedure and length
16 of time by which they may be availed of;

17 (3) The names of its key officials, their powers, functions and responsibilities, and
18 their profiles and curriculum vitae;

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

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

23 (6) Current and important database and statistics that it generates;

24 (7) Bidding processes and requirements; and

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

27 (b) Accessibility of Language and Form – Every government agency shall endeavor to
28 translate key information into major Filipino languages and present them in popular form
29 and means.

30 (c) Improving Capability – Every government agency shall ensure the provision of
31 adequate training for its officials to improve awareness of the right to information and the
32 provisions of this Act, and to keep updated as to best practices in relation to information
33 disclosure, records maintenance and archiving.

1 **SEC. 10. *Exemption From Compliance.*** – The government agency shall be excused
2 from complying with a subsequent identical or substantially similar request from the
3 same requesting party where it has previously complied with a request for information
4 unless a reasonable interval has lapsed between compliance with the previous request and
5 the making of the current request: *Provided, That* the government agency complies with
6 Section 18 of this Act.

7 **SEC. 11. *Additional Protection of Privacy*** – While providing for access to information
8 in public records, this Act also affords full protection of the right to privacy of
9 individuals, as follows:

10 (a) A government agency must ensure that personal information in its custody or under its
11 control is disclosed only as permitted under this Act;

12 (b) A government agency must protect personal information in its custody or under its
13 control by making reasonable security arrangements against such risks as unauthorized
14 access, collection, use, disclosure, or disposal;

15 (c) An employee, officer or director of a government agency who has access, whether
16 authorized or unauthorized, to personal information in the custody of the agency, must
17 not disclose that information except as authorized under this Act.
18

19 **SEC. 12. *Administrative Liability.*** – The acts enumerated in this Section shall be
20 tantamount to gross neglect of duty and shall constitute grounds for administrative and
21 disciplinary sanction against any public official or employee who willfully and
22 knowingly commits the following:

23 (a) Refusal to promptly forward the request under Section 16 of this Act to the public
24 officer within the same office or agency responsible for officially acting on the request
25 when such is the direct cause of the failure to disclose the information within the periods
26 required by this Act;

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

28 (c) Claim an exception under Section 7 of this Act when the claim is manifestly devoid of
29 factual or legal basis;
30

31 (d) Refusal to comply with the decision of his immediate supervisor, the Ombudsman, or
32 of any court ordering the release of information;

33 (e) Approval of policies, rules and regulations manifestly contrary to the provisions of
34 this Act, and which policies, rules and regulations are the direct cause of the denial of a
35 request for information.

- 1 **SEC. 13. Criminal Liability.** – (a) Any public official or employee who falsely denies or
2 conceals the existence of information mandated for disclosure under this Act shall be
3 liable for the crime of removal, concealment or destruction of documents as defined
4 under Article 226 of the Revised Penal Code.
- 5 (b) Any public official or employee who destroys, or causes to be destroyed, information
6 and/or documents being requested under this Act, for the purpose of frustrating the
7 requesting party's access thereto, shall be liable for the crime of removal, concealment or
8 destruction of documents as defined under Article 226 of the Revised Penal Code.
- 9 (c) Any private individual who knowingly induced or caused the commission of the
10 foregoing acts shall be liable as principal by inducement in the prosecution of public
11 officials or employees under this section.
- 12 **SEC 14. Mere Denial Not a Ground for Liability.** – A mere denial in good faith of a
13 request made pursuant to the provisions of this Act shall not constitute grounds for
14 administrative sanction or criminal liability.
- 15 **SEC. 15. Implementation Requirements.** – (a) For the effective implementation of this
16 Act, all government agencies shall prepare a Freedom of Information Manual, setting
17 forth the following:
- 18 (1) The location and contact information of the head, regional, provincial and
19 field offices, and other established places where the public can obtain information
20 or submit requests;
- 21 (2) The types of information it generates, produces, holds and/or publishes;
- 22 (3) A description of its record-keeping system;
- 23 (4) The person or office responsible for receiving requests for information;
- 24 (5) The procedure for the filing of requests personally, by mail, or through the
25 identified electronic means;
- 26 (6) The standard forms for the submission of request and for the proper
27 acknowledgement of the request;
- 28 (7) The process for the disposition of the request, including the routing of the
29 request to the person or office with the duty to act on the request, the decision-
30 making process, and the grant or denial of access and its implementation;
- 31 (8) The procedure for the administrative appeal of any denial for access to
32 information;

- 1 (9) The schedule of service or processing fees pertinent to a request for
2 information;
- 3 (10) The process and procedure for the mandatory disclosure of information under
4 Section 7 of this Act; provided that, should the agency lack the capacity to
5 comply with Section 7 of this Act, a brief description of its plan to facilitate
6 compliance within three (3) years from the approval of this Act; and
- 7 (11) Such other information, taking into consideration the unique characteristics
8 of an agency, that will help facilitate the effective implementation of this Act.
- 9 (b) The foregoing information shall also be posted in its website and bulletin boards, and
10 shall be regularly updated;
- 11 (c) In no case shall the absence of the aforementioned Manual be a reason for the denial
12 of any request for information made in accordance with this Act.
- 13 (d) The heads of each of the departments and agencies may designate liaison units or
14 Committees which shall coordinate with the other units of the agency in implementing
15 this act. The composition, functions and duties of these liaison units or Committees shall
16 be set out in the Implementing Rules of this Act and shall be included in the Freedom of
17 Information Manual.
- 18 **SEC. 16. Procedure of Access.** – (a) Any person who wishes to obtain information shall
19 submit, free of charge, a request to the government agency concerned personally, by
20 mail, or through electronic means. A person who is unable, because of illiteracy or
21 disability, to make a written request for information may make an oral request instead.
22 The public officer who receives the oral request shall reduce it to writing, indicating
23 therein his or her name and position within the government agency, and give a copy
24 thereof to the person who made the request. The request shall state the name and
25 preferred contact information of the requesting party, and reasonably describe the
26 information required, the reason for the request of the information and the preferred
27 means by which the government agency shall communicate such information to the
28 requesting party: *Provided*, That the stated reason shall not be used as a ground to deny
29 the request or to refuse the acceptance of the request, unless such request is contrary to
30 law. If the request is submitted personally, the requesting party shall show a current
31 identification document issued by any government agency, or government or private
32 employer or school, or a community tax certificate. If the request is submitted by mail or
33 through electronic means, the requesting party may submit a photostatic or electronically
34 scanned copy of the identification, or other convenient means as determined by the
35 agency.
- 36 (b) The public official receiving the request shall provide reasonable assistance, free of
37 charge, to enable all requesting parties and particularly those with special needs, to
38 comply with the requirements under this Section.

- 1 (c) The request shall be duly received by the concerned government agency, which shall
2 forthwith indicate the date and time of receipt and the name, rank, title and position of the
3 receiving public officer or employee who shall likewise affix his or her signature thereon,
4 and shall furnish the requesting party a copy thereof. In case the request is submitted by
5 electronic means, the government agency shall provide for an equivalent means by which
6 the requirements of this paragraph shall be met. Each government agency shall establish
7 a system by which the status of all requests for information received by it may be verified
8 at any time.
- 9 (d) The request may indicate the requesting party's preferred mode and means of
10 receiving the information requested, provided that the mode and means are reasonable,
11 taking into consideration equipment normally available to the concerned government
12 agency.
- 13 (e) A government agency may communicate the information requested in a form other
14 than the preferred means whenever such preferred means would unreasonably interfere
15 with the effective operation of the agency, or if the agency has no capability in
16 communicating the information in the preferred format, or when the preferred format
17 may be detrimental to the preservation of the record.
- 18 (f) The government agency shall comply with such request as soon as practicable, and in
19 any case within fifteen (15) working days from the receipt thereof. The period may be
20 extended whenever the information requested requires a search of the government
21 agency's field or satellite offices, examination of voluminous records, the occurrence of
22 fortuitous events or other analogous cases.
- 23 (g) The government agency shall, in writing or through electronic means, notify the
24 person making the request of the extension, setting forth the reasons for such extension
25 and the date when the information shall be made available, which in no case shall result
26 in an extension of more than twenty (20) working days.
- 27 (h) Once a decision is made to grant the request, the person making the request shall be
28 notified of such and pay the required access and processing fees.
- 29 (i) If the information is not held by the government agency from which the request was
30 made, it shall notify the requesting party that it does not hold the information and indicate
31 which agency holds the record, if known. Whenever practicable, the agency receiving the
32 request may also cause the transfer of the request to the appropriate agency that holds the
33 information: *Provided*, That the period to comply with the request under this Section
34 shall begin to run only upon the receipt of the agency to which the request is transferred.
- 35 **SEC. 17. Access and Processing Fees.** – Government agencies may charge a reasonable
36 fee to reimburse the actual cost of reproduction, copying or transcription and the
37 communication of the information requested. An agency may waive the fees whenever it
38 is satisfied that the requester is an indigent, or that the cost of reproduction is negligible,
39 or that it is pursuant to a program for proactive disclosure.

1 **SEC. 18. Notice of Denial.** – If the government agency decides to deny the request, in
2 whole or in part, it shall, as soon as practicable, and in any case within fifteen (15)
3 working days from the receipt of the request, notify the person making the request of
4 such denial in writing or through electronic means. The notice shall indicate the name,
5 rank, title or position of the person making the denial, clearly set forth the ground or
6 grounds for denial and the circumstances on which the denial is based, and indicate
7 available rights of reconsideration or appeal. Failure to notify the person making the
8 request of the denial, or of the extension, shall be deemed a denial of the request for
9 access to information.

10 **SEC. 19. Remedies in Cases of Denial.** – (a) In all government agencies other than the
11 judicial branch–

12 (1) A denial of a request for access to information may be appealed to the Head of
13 Agency, following the procedure required under Section 15 (a) (8) of this Act: *Provided,*
14 That the appeal must be filed within fifteen (15) calendar days from the receipt of the
15 notice of denial and must be decided within fifteen (15) calendar days from filing. Failure
16 to resolve the appeal within the aforementioned period shall constitute a denial of the
17 appeal.

18 (2) A person denied access to information may file a verified complaint with the Office
19 of the Ombudsman, praying that the government agency concerned be directed to
20 immediately afford access to the information being requested. The Office of the
21 Ombudsman shall promulgate its special rules of procedure for the immediate disposition
22 of complaints filed pursuant to this Section. Unless restrained or enjoined, the decisions
23 of the Office of the Ombudsman shall be immediately executory, without prejudice to
24 review in accordance with the Rules of Court.

25 (3) A party whose request for information has been denied, whether or not such decision
26 has been appealed to the Head of the Agency, may file a verified petition for mandamus
27 in the proper court, alleging the facts with certainty and praying that judgment be
28 rendered ordering the respondent, immediately or at some other time to be specified by
29 the court, to disclose the information and to pay the damages sustained by the requesting
30 party by reason of the denial. The procedure for such petition shall be summary in nature.

31 In resolving a complaint or petition brought under paragraphs (2) and (3) hereof,
32 the Ombudsman or the court is empowered to receive the information subject of a claim
33 of exception under Section 7 herein and examine them *in camera* to determine the
34 sufficiency of the factual and legal basis of such claim, when such sufficiency cannot be
35 reasonably determined through evidence and circumstances apart from the information.

36 (b) In the Judicial Branch – The Judiciary shall be governed by such remedies as
37 promulgated by the Supreme Court.

1 The remedies under this section shall be sought or granted without prejudice to
2 any other administrative, civil or criminal action covering the same act.

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

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

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

19 (b) Government agencies, in coordination with the National Archives of the Philippines,
20 shall identify specific and classes of official records in their custody or control that have
21 continuing historical, administrative, informational, legal, evidentiary, or research value
22 for preservation by such agencies or their legitimate successors, or for transfer to the
23 National Archives of the Philippines.

24 (c) In addition to the specific and classes of official records identified for preservation
25 under letter (b) of this section, the following shall not be destroyed:

26 (1) Records pertaining to loans obtained or guaranteed by the government;

27 (2) Records of government contracts involving amounts Fifty Million or more, or
28 related to infrastructure, public and private partnerships, utilities, or other important
29 projects

30 (3) The original declaration under oath of the assets, liabilities and net worth of
31 public officers and employees submitted to the Office of the Ombudsman, as required by
32 law, and

33 (4) Records of official investigations pertaining to allegations of graft and
34 corruption of public officers.

35 (d) Government agencies shall prepare, following standards and period promulgated
36 pursuant to Republic Act No. 9470 or the National Archives of the Philippines Act of

1 2007, a records management program that includes the following:

2 (1) A records maintenance system for the creation, selection, classification,
3 indexing and filing of official records that facilitate the easy identification,
4 retrieval and communication of information to the public;

5 2) A records maintenance, archival and disposition schedule providing a listing of
6 records under current use for retention by the agency, for transfer to the National
7 Archives, or for destruction: *Provided*, That destruction of the official records
8 may be implemented only upon approval of the National Archives of the
9 Philippines; and

10 (3) Identification of the specific roles and responsibilities of agency personnel in
11 the implementation of such system and schedule.

12 (e) In addition to its function as repository of all rules and regulations issued by agencies
13 as provided under Book VII, Chapter II of the Administrative Code of 1987, the
14 University of the Philippines Law Center shall, in coordination with the Office of the
15 President which has exclusive editorial and printing jurisdiction over the *Official Gazette*,
16 and with other relevant agencies, maintain a database, and publish in the *Official Gazette*
17 or in digital or online form, the following:

18 (1) All laws of the Philippines and their amendments, from the period of the
19 Philippine Commission to the present;

20 (2) All presidential issuances from November 15, 1935 to the present, including
21 but not limited, to executive orders, presidential proclamations, administrative
22 orders, memorandum circulars, general orders, and other similar issuances;

23 (3) A database of all appointments and designations made by the President of the
24 Philippines; and

25 (4) Opinions of the Secretary of Justice.

26 **SEC 21. Publication in the Official Gazette.** For purposes of mandatory disclosure as
27 provided in Section 8 of this Act, online publication in the Official Gazette website shall
28 be considered official publication provided there shall be a timestamp in the said
29 document.

30 For purposes of compliance with Article 2 of the Civil Code of the Philippines,
31 publication of the following in the online version of the Official Gazette, with the
32 corresponding timestamps on the document, shall be considered as official publication:

33 (a) All important legislative acts and resolutions of a public nature of the Congress of
34 the Philippines;

35 (b) All executive and administrative orders and proclamations of general application;

1 (c) Decisions or abstracts of decisions of the Supreme Court and the Court of
2 Appeals or other courts of similar rank, as may be deemed by said courts of
3 sufficient importance to be so published;

4 (d) Such documents or classes of documents as the President shall determine from
5 time to time to have general application or which he may authorize to be
6 published.

7 *However*, other documents or classes of documents as may be required to be
8 published by law, such as petitions and/or legal notices in connection with land titles,
9 naturalization or special proceedings shall continue to be published in the print version of
10 the Official Gazette or in any newspaper of general circulation for purposes of
11 compliance with the publication requirement.

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

15 **SEC 23. *Separability Clause.*** – If any provision or part hereof is held invalid or
16 unconstitutional, the remainder of the law or the provision not otherwise affected shall
17 remain valid and subsisting.

18 **SEC 24. *Repealing Clause.*** – All laws, decrees, executive orders, rules and regulations,
19 issuances or any part thereof inconsistent with the provisions of this Act, including
20 sections 18, 24 and 25 of Executive Order No. 292 or the Administrative Code of 1987 in
21 relation to Article 2 of Republic Act No. 386 or the Civil Code, Memorandum Circular
22 No. 78 dated 14 August 1964 (Promulgating Rules Governing Security of Classified
23 Matter in Government Offices), as amended, and Section 3, Rule IV of the Rules
24 Implementing Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public
25 Officials and Employees), are deemed repealed.

26 **SEC 25. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its
27 publication in at least two (2) national newspapers of general circulation.

FACT SHEET

HOUSE BILL NO. 6766
(As Approved by the Committee)

AN ACT TO STRENGTHEN THE RIGHT OF CITIZENS TO INFORMATION HELD BY THE GOVERNMENT

Introduced by:

Representatives Rodolfo G. Biazon, Marcelino "Marcy" R. Teodoro, Lorenzo R. Tañada III, Karlo Alexei B. Nograles, Juan Edgardo "Sonny" M. Angara, Teddy A. Casiño, Neri Javier Colmenares, Walden F. Bello, Kaka J. Bag-ao, Pedro P. Romualdo, Sergio A.F. Apostol, Rachel Marguerite B. Del Mar, Winston T. Castelo, Salvador H. Escudero III, Rodolfo W. Antonino, Sherwin N. Tugna, Joseph Victor G. Ejercito, Ben P. Evardone, Bernadette Herrera-Dy, Cinchona Cruz-Gonzales, Ma. Victoria R. Sy-Alvarado and Jim Hataman-Salliman

Committee Referral: COMMITTEE ON PUBLIC INFORMATION
Committee Chairperson: REP. BEN P. EVARDONE

OBJECTIVES:

- To give flesh to the constitutional provisions on the right of the people to information on matters of public concern, the mandate of the State to implement a policy of full public disclosure of all its transactions involving public interest, and the protection of the privacy of the individual
- To provide the parameters and mechanisms for the citizens' access to information in all government offices

KEY PROVISIONS:

- Covers all government offices in the executive, legislative and judicial branches as well as the constitutional bodies of the Republic of the Philippines;
- Makes available for public scrutiny, copying and reproduction all information pertaining to official acts, transactions or decisions, as well as government research data used as basis for policy development;
- Exempts the following from public access:
 1. Information that is specifically authorized to be kept secret under guidelines established by an executive order, and in fact properly classified pursuant thereto, provided that the information directly relates to national security or defense and its revelation may cause grave damage to the national security or internal and external defense of the State; or Information that pertains to the foreign affairs of the Republic of the Philippines, when its revelation shall unduly weaken the negotiating position of the government in an ongoing bilateral or multilateral negotiation or seriously jeopardize the diplomatic relations of the Philippines with one or more states;
 2. Information that consists of records of minutes and advice given and opinions expressed during decision-making or policy formulation, invoked by the Chief Executive to be privileged by reason of the sensitivity of the subject matter or of the impairment of the Chief Executive's deliberative process that would result from the disclosure thereof;

3. Information that pertains to internal and/or external defense, law enforcement, and border control, when the disclosure thereof would:
 - i. unduly compromise or interfere with any legitimate military or law enforcement operation, or
 - ii. unduly compromise or interfere with the prevention, detection or suppression of criminal activity, the effective implementation of immigration controls and border security, or
 - iii. deprive a person of a right to a fair trial or an impartial adjudication, or
 - iv. lead to the disclosure of the identity of a confidential source, including a government, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a law enforcement authority in the course of an investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, or
 - v. disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or
 - vi. endanger the life or physical safety of any individual;
4. Information that consists of drafts of orders, resolutions, decisions, memoranda or audit reports by any executive, administrative, regulatory, constitutional, judicial or quasi-judicial body in the exercise of their regulatory, audit and adjudicatory function;
5. Information that is obtained by any committee of either House of Congress in executive session;
6. Information that pertains to the personal information of a natural person other than the requesting party, and its disclosure would clearly constitute an unwarranted invasion of his or her personal privacy, unless it forms part of a public record, or the person is or was an official of a government agency and the information relates to his or her public function or the person has consented in writing to the disclosure of the information;
7. Information that pertains to trade secrets and commercial or financial information obtained from a natural or juridical person other than the requesting party, obtained in confidence or covered by privileged communication, and/or filed with a government agency, whenever the revelation thereof would seriously prejudice the interests of such natural or juridical person in trade, industrial, financial or commercial competition;
8. Information that is classified as privileged communications in legal proceedings by law or by the Rules of Court;
9. Information that is exempted by law or the Constitution, in addition to those provided in this section;
10. Information that has already been made accessible as provided for in Section 10.

- Ensures that:
 1. The exceptions are strictly construed;
 2. The exceptions are not used to cover up a crime, wrongdoing, graft or corruption;
 3. Whenever the information covered by an exception may be reasonably severed from a record, the record shall be released with the exempt information redacted, or the information not covered by the exception shall otherwise be communicated to the requester;
 4. The President, the Justices of the Supreme Court, the members of the Senate and the House of Representatives, and the Commissioners of the Constitutional Commissions may waive an exception with respect to information in the custody of offices under their respective supervision or control, when they deem that there is an overriding public interest in disclosure; and
 5. The exceptions do not constitute authority to withhold information from Congress, nor authority for the executive branch of a local government unit to withhold information from the legislative body of such local government unit.
- Requires the following national officials to publish their Statement of Assets, Liabilities and Net Worth (SALN) on their official websites:
 1. the President;
 2. the Vice- President;
 3. the Members of the Cabinet;
 4. the Members of the Senate and the House of Representatives;
 5. the Justices of the Supreme Court;
 6. the Commissioners of the Constitutional Commissions and other constitutional offices; and
 7. the officers of the Armed Forces with the rank of general or the equivalent flag rank.
- Requires all agencies of all branches of government to publish on their websites, a register of the following:
 1. Freedom of Information Manual in full;
 2. 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;
 3. Substantive rules of general applicability and statements of general policy, including subsequent amendments;
 4. Public interest documents or records
- Affords full protection of the right to privacy of individuals by requiring government agencies to protect personal information in their custody and disclose the same only as permitted under the Act
- Prohibits the destruction of certain records or information
- Establishes the procedure for access of information by requiring any person who wishes to obtain information to submit a request to the government agency concerned stating the name and preferred contact information, and reasonably describing the information requested, the reason for the request and the preferred means by which the government agency will communicate the information to the requesting party

- Provides remedies to the requesting party in case of denial
- Imposes administrative and/or criminal liabilities upon any public official or employee who shall violate the provisions of the Act

RELATED LAWS:

- Implementing Rules and Regulations of Republic Act No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees
- Memorandum Circular No. 78 dated 14 August 1964 - Promulgating Rules Governing Security of Classified Matter in Government Offices, as amended
- Republic Act No. 9485 or the Anti-Red Tape Act of 2007
- Republic Act No. 9470 or the National Archives of the Philippines Act
- Republic Act No. 9285 or the Alternative Dispute Resolution Act of 2004
- Republic Act No. 6957 as amended by RA 7718, or the Philippine BOT Law
- Article 226 of the Revised Penal Code
- Book VII, Chapter II of the Administrative Code of 1987
- Article II of the Civil Code

As of Dec. 11, 2012