

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
SIXTEENTH CONGRESS
First Regular Session
House Bill No. **3746**



Introduced by **Hon. Sol Aragon**

EXPLANATORY NOTE

The Constitution, Article 3, Section 7, provides:

Section 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.

More than 90 countries have a freedom of information law. This shows a trend towards granting the public greater access to government information. In the Philippines, it has been more than 20 years since the first bill on freedom of information was filed in Congress.

This bill gives flesh to the freedom of information as enshrined in our Constitution. It allows the access of government records to pave the way for a better check on the operations of government. The public is the most effective watchdog of government and it is about time that their rights are protected through legislation. Information empowers our people and makes for a more intelligent electorate. Denying access to public records will only weaken our democratic institutions as our leaders are made less accountable to the people they are duty bound to serve.

The early adoption of this bill is thus earnestly requested.


HON. SOL ARAGONES
Representative, Third District of Laguna

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1 **FREEDOM OF INFORMATION ACT**

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

2 SECTION 1. *Declaration of Policies.* – The State shall protect the right of the people
3 to information on matters of public concern. Towards this end, access to official records, and
4 to documents and papers pertaining to official acts, transactions, or decisions, as well as to
5 government research data used as basis for policy development, shall be afforded the citizen,
6 subject to limitations provided by this Act and other relevant laws.

7 SECTION 2. *Definitions.* – As used in this Act, the term "Public body" shall refer to
8 all legislative, executive, judicial, administrative, or advisory bodies of the government,
9 including state universities and colleges, local government units, national or local agencies,
10 and all other instrumentalities of government.

11 "Information" shall refer to all records held by a public body. This shall not be limited
12 to official documents and it shall also cover, among others, drafts, e-mails, notes, recordings
13 of telephone conversations, and CCTV recordings.

14 SECTION 3. *Presumption.* – All records in the custody or possession of a public body
15 are presumed to be open to inspection or copying. Any public body that asserts that a record
16 is exempt from disclosure has the burden of proving by clear and convincing evidence that it
17 is exempt.

1 SECTION 4. *Freedom of Information.* – (a) Each public body shall make available to
2 any person for inspection or copying all public records, except as otherwise provided in
3 Section 5 of this Act. Notwithstanding any other law, a public body may not grant to any
4 person or entity, whether by contract, license, or otherwise, the exclusive right to access and
5 disseminate any public record as defined in this Act;

6 (b) Subject to the fee that may be reasonably charged, each public body shall
7 promptly provide, to any person who submits a request, a copy of any public record required
8 to be disclosed by subsection (a) of this Section and shall certify such copy if so requested.

9 (c) Requests for inspection or copies shall be made in writing and directed to the
10 public body. Written requests may be submitted to a public body via personal delivery, mail,
11 telefax, or other means available to the public body. A public body may honor oral requests
12 for inspection or copying. A public body may not require that a request be submitted on a
13 standard form or require the requester to specify the purpose for a request, except to
14 determine whether the records are requested for a commercial purpose or whether to grant a
15 request for a fee waiver. All requests for inspection and copying received by a public body
16 shall immediately be forwarded to its Freedom of Information officer or designee.

17 (d) Each public body shall, promptly, either comply with or deny a request for public
18 records within five (5) business days after its receipt of the request, unless the time for
19 response is properly extended under subsection (e) of this Section. Denial shall be in writing.
20 Failure to comply with a written request, extend the time for response, or deny a request
21 within 5 business days after its receipt shall be considered a denial of the request. A public
22 body that fails to respond to a request within the requisite periods in this Section but
23 thereafter provides the requester with copies of the requested public records may not impose
24 a fee for such copies. A public body that fails to respond to a request received may not treat
25 the request as unduly burdensome under subsection (g).

26 (e) The time for response under this Section may be extended by the public body for
27 not more than 5 business days from the original due date for any of the following reasons:

28 (i) the requested records are stored in whole or in part at other locations than
29 the office having charge of the requested records;

30 (ii) the request requires the collection of a substantial number of specified
31 records;

32 (iii) the requested records require examination and evaluation by personnel
33 having the necessary competence and discretion to determine if they are exempt from

1 disclosure under the conditions set in this Act or should be revealed only with
2 appropriate deletions;

3 (iv) the request for records cannot be complied with by the public body within
4 the time limits prescribed by paragraph (c) of this Section without unduly burdening
5 or interfering with the operations of the public body;

6 (v) there is a need for consultation, which shall be conducted with all
7 practicable speed, with another public body or among two or more components of a
8 public body having a substantial interest in the determination or in the subject matter
9 of the request.

10 (f) When additional time is required for any of the above reasons, the public body
11 shall, within 5 business days after receipt of the request, notify the person making the request
12 of the reasons for the extension and the date by which the response will be forthcoming.
13 Failure to respond within the time permitted for extension shall be considered a denial of the
14 request. A public body that fails to respond to a request within the time permitted for
15 extension but thereafter provides the requester with copies of the requested public records
16 may not impose a fee for those copies. A public body that requests an extension and
17 subsequently fails to respond to the request may not treat the request as unduly burdensome
18 under subsection (g).

19 (g) Requests calling for all records falling within a category shall be complied with
20 unless compliance with the request would be unduly burdensome for the complying public
21 body and there is no way to narrow the request and the burden on the public body outweighs
22 the public interest in the information. Before invoking this exemption, the public body shall
23 extend to the person making the request an opportunity to confer with it in an attempt to
24 reduce the request to manageable proportions. If any body responds to a categorical request
25 by stating that compliance would unduly burden its operation and the conditions described
26 above are met, it shall do so in writing, specifying the reasons why it would be unduly
27 burdensome and the extent to which compliance will so burden the operations of the public
28 body. Such a response shall be treated as a denial of the request for information.
29 Repeated requests from the same person for the same records that are unchanged or identical
30 to records previously provided or properly denied under this Act shall be deemed unduly
31 burdensome under this provision.

32 (h) Every public body shall impose no requirement that the purpose of the request be
33 revealed nor seek to impose conditions on the use of the information;

1 (i) Every public body shall actively help those seeking information, direct the
2 requesting party to the information if it is already published, and provide information in the
3 form requested if practicable;

4 (j) Requests made by journalists shall be acted upon within two (2) days after the
5 receipt of the request. Every journalist shall have the right to be informed in writing by the
6 public body whether it holds information of the description specified in the request and if that
7 is the case to have that information communicated to him. Journalists shall also be exempted
8 from search fees that may be imposed by the public body. Journalists shall also be exempted
9 from the payment of copying fees for the first one hundred (100) pages of material every year
10 or more if a waiver is applied with and granted by the FOI officer.

11 (k) Each public body may promulgate rules and regulations in conformity with the
12 provisions of this Section pertaining to the availability of records and procedures to be
13 followed, including the times and places where such records will be made available, and the
14 persons from whom such records may be obtained.

15 (l) A denial of the request by the FOI officer may be appealed within fifteen (15) days
16 from notice of such denial to the head of office or agency. The head of office or agency shall
17 decide the appeal within fifteen (15) days of filing. Inaction at the end of the same period
18 shall be deemed a denial of the appeal. The decision of the head of agency may be contested
19 in the proper court through a verified petition for *mandamus*.

20 SECTION 5. *Exceptions.* – The following shall not be included in the scope of the
21 previously preceding Section:

- 22 (a) Information specifically authorized to be kept Secret under guidelines established by
23 an executive order, and properly classified;
- 24 (b) The records of minutes and advice given and opinions expressed during decision-
25 making or policy formulation, invoked by the Chief Executive to be privileged by
26 reason of the sensitivity;
- 27 (c) Information pertaining to internal and/or external defense, law enforcement, and
28 border control;
- 29 (d) Drafts of orders, resolutions, decisions, memoranda or audit reports by any executive,
30 administrative, regulatory, constitutional, judicial or quasi-judicial body;
- 31 (e) Information obtained by any committee of either House of Congress in executive
32 session;

- 1 (f) Personal information of a natural person other than the requesting party shall be
2 exempted and the only acceptable public interest necessary to release personal
3 information is to the extent to which such disclosure will shed light on government
4 operations or activities;
- 5 (g) Information pertaining to trade secrets and commercial or financial information that
6 would seriously prejudice industrial, financial, or commercial competition. However,
7 this exception does not apply to documents the government prepares based primarily
8 on information the government gathers from outside sources as well as to information
9 that has been publicly disseminated;
- 10 (h) Information classified as privileged communications in legal proceedings by law or
11 by the Rules of Court;
- 12 (i) Information exempted by law or the Constitution.
- 13 However, all segregable non-exempt portions of documents must be released even if
14 other parts of the record are redacted or deleted.

15 SECTION 6. *Separability Clause.* - If any provision of this Act or the application of
16 such provision to any person or circumstance is declared invalid, the remainder of the Act or
17 the application of such provision to other persons or circumstances shall not be affected by
18 such declaration.

19 SECTION 7. *Repealing Clause.* - Any law, presidential decree or issuance, executive
20 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent
21 with this Act is hereby repealed, modified, or amended accordingly.

22 SECTION 8. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
23 publication in at least two (2) newspapers of general circulation.

Adopted,