

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

Seventeenth Congress
Second Regular Session

HOUSE BILL NO. **6459**



Introduced by Representative Sharon S. Garin

EXPLANATORY NOTE

The average Filipino family spends a total 41.9% of their annual family expenditures on food. For families in the bottom 30% income group, the percentage is much higher at 59.7%. For some, even earning enough money to spend on the standard three (3) meals a day is a constant daily struggle.

Access to affordable food should be among the top priorities of the government. There are several factors that may contribute to higher-than-ideal prices even for basic commodities. This includes supply shortages and inflated prices brought about by collusion and cartel, to name a few.

In order to reinforce the right of the people to affordable food and adequate food supply, the State should adopt and implement a policy of full public disclosure of all government transactions involving food and basic commodities. This is consistent with Art II, Section 28 of the Constitution which guarantees the right of people to information of transactions involving public interest.

Any person could request any government body regarding information on government dealings related to food. This information would include all documents, papers, letters, minutes and transcripts of official meetings, and all other records, received or kept in or under the control of custody of any government body, including but not limited to the Department of Agriculture (DA), the Department of Trade and Industry (DTI) and other agencies involved in handling the country's food supply. Of particular note are importation permits for basic commodities like rice, corn, and sugar, granted by said agencies. To strengthen the mandate of this act, government agencies refusing to disclose such information shall be met with strict penalties.

A more transparent system when it comes to food transactions should lead to more honest dealings by the government, and all other parties involved. In view of the forgoing, passage of this bill is earnestly sought.


SHARON S. GARIN
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13 AN ACT
14 MANDATING THE GOVERNMENT TO PROVIDE ACCESS TO INFORMATION
15 ON FOOD AND OTHER BASIC COMMODITIES TO GUARANTEE THE RIGHT
16 OF THE PEOPLE TO AFFORDABLE FOOD AND ADEQUATE FOOD SUPPLY
17 PRESCRIBING GUIDELINES THEREFOR, AND FOR OTHER PURPOSES
18

19 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
20 *assembled:*
21

22 SECTION 1. *Short Title.* – This Act shall be known as the "Affordable Food
23 Transparency Act."

24 SEC. 2. *Declaration of Policy.* – The State recognizes as a matter of policy the
25 fundamental right of the people to affordable food and adequate food supply. The State
26 therefore acknowledges its obligation in ensuring the steady supply of food and other basic
27 commodities, as well as maintaining transparency in all its transactions relative thereto, and
28 in preventing any and all forms of collusion and cartel that would restrict the people's access
29 to affordable food and adequate food supply. In order to reinforce the right of the people to
30 affordable food and adequate food supply, the State shall adopt and implement a policy of
31 full public disclosure of all government transactions involving food and basic commodities,
32 consistent with the Constitutional right of the people to information on all matters of public
33 concern.

34 To guarantee the people's fundamental human right to affordable food and food
35 supply, the State shall afford to citizens, non-government organizations (NGO), civil society

1 groups, and other private entities access to official records, and to documents and papers
2 pertaining to official acts, transactions or decisions, as well as to government research data
3 used as basis for policy development, except for such information affecting national security
4 or foreign diplomatic relations.

5 **SEC. 3. *Definition of Terms.* -**

- 6 (a) "Basic commodities" for purposes of this Act includes: rice, corn; bread; fresh, dried
7 and canned fish and other marine products, fresh pork, beef and poultry meal; fresh
8 eggs; fresh and processed milk; fresh vegetables; root crops; coffee; sugar; instant
9 noodles; salt;
- 10 (b) "Government body" shall mean any Executive, specifically, but not limited to, the
11 Department of Agriculture (DA) and Department of Trade and Industry (DTI),
12 Legislative, Judicial or Constitutional body of the Government of the Republic of the
13 Philippines, including local government units, the Armed Forces of the Philippines
14 (AFP) and the Philippine National Police (PNP), government financial institutions
15 and government-owned and controlled corporations, whether created by its own
16 charter or by registration with the Securities and Exchange Commission (SEC), and
17 all such other entities where the government has substantial interest in;
- 18 (c) "Information" shall mean all documents, papers, letters, minutes and transcripts of
19 official meetings, maps, books, photographs, films, sound and video recordings,
20 magnetic or other tapes, electronic data processing records, computer stored data,
21 electronic mail messages, or any other like or similar data or material, recorded,
22 stored or archived in whatever form or format, which are made, received or kept in or
23 under the control and custody of any government body pursuant to law, executive
24 order, rules and regulation, ordinance or in connection with the performance or
25 transaction of official business by any government body.

(d) "Requesting person" shall mean a natural person, whether on his own or as a representative of another natural person or a juridical person, who makes a request to obtain, have a copy of or have access to information from any government body as defined in this section.

(e) "Trade secret" shall mean any information, including a formula, pattern, compilation, program, device, product, method, technique or process, that is used, or may be used, in business or for any commercial advantage; derives independent economic value, actual or potential, from not being generally known to the public or to persons who can obtain economic value from its disclosure or use, is the subject of reasonable efforts to prevent it from becoming generally known, and the disclosure of which would result in harm or improper benefit.

SEC. 4. *Publication of Importation Permits.* – In the spirit of transparency and accountability, the Department of Agriculture shall cause the publication of the following information on importation permits that it has granted for basic commodities, such as rice, corn, and sugar.

- (a) Name and address of importer, whether a natural or juridical entity,
- (b) Name and address of supplier from whom importation is sourced;
- (c) Country of origin of the import per shipment;
- (d) Date of contract of import;
- (e) Date of arrival of import per shipment;
- (f) Schedule, cargo or vessel, and maximum tonnage per shipment;
- (g) Contracted and actual volume of import per shipment;
- (h) Specification of import per shipment;
- (i) Contracted price of import per shipment;
- (j) Value or cost of import per volume and for each source;

1 (k) Mode of purchase of import per shipment;

2 (l) Drop-off points or ports per shipment; and

3 (m) Such other information that may be necessary to ensure a complete and proper
4 inventory of basic commodities.

5 The Department of Agriculture shall also prepare, keep and maintain records and a
6 database containing the above-enumerated information which shall be made readily available
7 to the public.

8 **SEC. 5. Coverage and Limitations.** – All information, as herein defined, which are in
9 the custody or under the control of a government body shall be made accessible and available
10 for public scrutiny, copying and reproduction, except when:

11 (a) The information pertains to personal information on a third party natural person, but
12 only when its revelation would constitute a violation of an individual's right against
13 self-incrimination, including, but not limited to, records or information covered by
14 attorney-client or doctor-patient relationship;

15 (b) The information has been specifically authorized to be kept secret or considered
16 classified in the interest of national security by the President through an Executive
17 Order duly published in the Official Gazette and in at least two (2) newspapers of
18 general circulation, subject to the following provisions.

19 i. The Supreme Court may, upon complaint by any citizen, inquire into the
20 sufficiency of the factual basis for the President's determination;

21 ii. Such information shall be reviewed every five (5) years by the head of the
22 appropriate agency concerned for purposes of declassification and making
23 available to the public, and

24 iii. Such information shall finally be deemed declassified and open to the public
25 after a period of fifteen (15) years from the date of publication of the said

1 Executive Order in the Official Gazette or in a newspaper of general
2 circulation, whichever was first.

3 (c) The information is maintained by law enforcement agencies for criminal law
4 enforcement, or, relates to the detection and investigation of crime, including those
5 maintained on any individual or compiled in the Course of a criminal investigation by
6 any law enforcement agency. *Provided that* the disclosure of such public record or
7 information:

- 8 i. Could reasonably be expected to interfere with the prevention, detection,
9 suppression, or investigation of any criminal activity or with law enforcement
10 operations;
- 11 ii. Would deprive a person of a right to a fair trial or an impartial adjudication;
- 12 iii. Could reasonably be expected to constitute an unwarranted invasion of
13 personal privacy;
- 14 iv. Could reasonably be expected to disclose the identity of a confidential source,
15 including a foreign agency or authority, or any private institution which
16 furnished information on a confidential basis, or the information furnished by
17 a confidential source;
- 18 v. Would disclose techniques and procedures for law enforcement investigations
19 or prosecutions, or would disclose guidelines for law enforcement
20 investigations or prosecutions;
- 21 vi. Could reasonably be expected to endanger the life or physical safety of any
22 individual, harm the security of any property or system; or
- 23 vii. Could harm the security of any property or system, including, but not limited
24 to, a building, vehicle, computer or communications system: *Provided,*

1 *however*, that records or information relating to the administration,
2 management and direction of a law enforcement agency shall be public.

3 (d) The information is maintained by the Department of Foreign Affairs and other
4 relevant government bodies on another sovereign state, and the disclosure of such
5 records or information could reasonably be expected to jeopardize the diplomatic
6 relations of the Government of the Republic of the Philippines with the said sovereign
7 state: *Provided, that* treaties, trade agreements, contracts between agencies and/or
8 government-owned and controlled corporations, and implementing agreements,
9 annexes, side letters and other such documents and records pertaining to or related to
10 the same, and any other documents pertaining to dealings entered into by, the
11 Government of the Republic of the Philippines with another sovereign State and binds
12 the Government to uphold such transactions under international and local law, shall
13 not be covered by this exception;

14 (e) The information pertains to trade secrets and commercial or financial information
15 obtained from a person, firm, or corporation which is of a privileged or confidential
16 nature, or

17 (f) The information is exempted from disclosure by another law or by the Rules of Court,
18 including, but not limited to, information considered as privileged communication or
19 gathered by any government body in closed or executive session.

20 In cases where access is requested to a portion of a record or information that is
21 exempt from disclosure pursuant to this Act, the public shall have the right of access to the
22 remainder of the record: *Provided, that* the exempt portion of the record can be reasonably
23 separated, severed, deleted or concealed from the record.

24 Nothing in this Act shall, however:

- (a) authorize the withholding of information from, or limit the availability of records to Congress or any of its committees;
- (b) affect the power of any court, tribunal, investigative body, or any government body exercising quasi-judicial functions to compel a witness to testify or to compel the production of documents;
- (c) limit the information otherwise available by law to a party to litigation including a civil, criminal or administrative proceeding;
- (d) prohibit the transfer, storage or destruction of any record pursuant to law, decree, order, ordinance or rules and regulations;
- (e) prevent access to records maintained in a public office for the purpose of providing the public access to information; or
- (f) restrict disclosure of information for the purpose of an investigation or prosecution of a criminal case or a case of graft and corruption.

SEC. 6. *Procedure for Access.* – Any person who seeks to obtain, have a copy of or have access to any information shall file a request in writing, as much as practicable, to the government body concerned, reasonably describing the information being sought, and stating details on how he could be contacted by the said government body.

The government body shall comply with the said request within two (2) working days after the receipt of the request, or within a reasonable period of time mutually agreed upon by the requesting person and the government body's employee concerned, but not to exceed five (5) working days.

The time for compliance may, with due notice to the requesting person, be extended by the head of the government body to a period not exceeding fifteen (15) days if:

- (a) The requesting person failed to give enough details about the information or record sought to be obtained.

1 (b) A large number of records is sought to be obtained in a single request, or when it has
2 received voluminous requests, that compliance within the prescribed period under this
3 Act would unreasonably interfere with its operations;

4 (c) The request requires search and collation of records from its field offices,

5 (d) Additional time is needed to consult with another government body having material or
6 substantial interest in the determination of the request; and

7 (e) There are fortuitous events or other events from force majeure, or other analogous
8 cases.

9 **SEC. 7. *Payment of Reasonable Fees.*** – Copies or reproductions of information,
10 whether in print or electronic media, may be obtained by the requesting person whose request
11 has been approved upon payment of a reasonable fee which shall not exceed the actual cost of
12 reproduction plus a reasonable margin not exceeding ten percent (10%). *Provided, that*
13 *proceeds from the reproduction fees charged shall be used exclusively for the purchase and*
14 *maintenance of equipment and supplies required to produce copies or reproductions of the*
15 *said records.*

16 Upon request, the government body shall provide a detailed itemization of the costs
17 charged for the reproduction. No government body may, however, require the advanced
18 payment of any reproduction fee.

19 **SEC. 8. *Transfer of Request*** – If the government body to which the request was filed
20 determines that the information being sought is not in its custody or control, it shall, within
21 two (2) days, notify the requesting person of the same, through writing or other contact
22 channels that the requesting person has provided, and shall then either: 1) transmit the said
23 request to the government body which has the possession or custody of the information being
24 sought, or 2) provide the requesting person with a referral letter, signed by its head and

1 addressed to the head of the government body which has the possession or custody of the
2 information being sought.

3 The government body receiving of such transmittal or referral letter shall then act on
4 such request in the manner set forth in Section 5 hereof.

5 **SEC. 9. Denial of Request** – If the government body decides to deny the request, in
6 whole or in part, it shall within two (2) working days from the receipt of the request notify
7 the requesting person of such denial in writing, signed by the head of the government body,
8 and the specific grounds for the denial and the corresponding legal basis, as allowed in
9 Section 5 hereof.

10 **SEC. 10. Remedies to Compel Disclosure.** – Every denial of any request for access to
11 information may be appealed before the Office of the Ombudsman by filing, within fifteen
12 (15) days from receipt of a letter of denial, a prayer for the disclosure of the information
13 being sought.

14 If the Office of the Ombudsman upholds such denial or fails to act on such prayer
15 within sixty (60) days, the requesting person may then file a verified petition for mandamus
16 before the Regional Trial Court with jurisdiction over the government body's office receiving
17 the request for information. A decision of the court granting the request for information shall
18 be subject to the proper judicial remedies available to the affected government body,
19 following the procedure provided under the Rules of Court.

20 Nothing in this Section shall prejudice any other available administrative, civil or
21 criminal remedy.

22 **SEC. 11. Mandatory Disclosure of Food Information.** – Each government body that
23 possesses any significant information that affects food supply and prices shall readily
24 disseminate the same to the public and regularly update said information. The means of
25 disclosure and dissemination of such information shall include, but not be limited to: (a)

1 manuals, pamphlets, brochures, bulletins, posters, announcements, or any other printed
2 collaterals, for distribution or for posting by the government body concerned in conspicuous
3 places in its central and field offices, and (b) electronically uploading of such information on
4 its website.

5 **SEC. 12. *Mandatory Disclosure for Public Interest.*** – Any government body which
6 is in possession or has knowledge of any information, not otherwise declared classified or
7 exempt pursuant to this Act, about the existence of a factor or risk significant to food supply
8 and prices, or which clearly affects public's right to affordable food and adequate food
9 supply, shall without delay disclose such information to the public.

10 **SEC. 13. *Penal Provisions.*** – Any official or employee of the government body
11 which has possession of any significant information on food supply and prices found guilty
12 by final judgment of the proper court of denying access to information, or parts thereof,
13 without a valid legal ground as provided for in this Act, or who shall knowingly release false
14 and/or misleading information, shall be punished with a fine of not less than Twenty
15 Thousand Pesos (P20,000.00) but not more than Forty Thousand Pesos (P40,000.00), and/or
16 imprisonment of not less than one (1) year but not more than three (3) years, including all the
17 accessory penalties provided by law, upon the discretion of the Court.

18 Any official or employee who shall fail to respond to a request due to negligence, or
19 fail to meet the time limits for response set forth in this Act, without reasonable reasons for
20 such, shall be punished with a fine of not less than Ten Thousand Pesos (P10,000.00) but not
21 more than Twenty Thousand Pesos (P20,000.00), and/or imprisonment of not less than six (6)
22 months but not more than one (1) year, including all the accessory penalties provided by law,
23 upon the discretion of the court.

24 Any official or employee who shall deliberately and knowingly refuse, or because of
25 negligence fail, to update any information his or her office is required to disclose under

1 Section 10 of this Act shall be penalized administratively with suspension from service,
2 without pay, of at least six (6) months but not more than one (1) year. A subsequent offense
3 shall cause his dismissal from service.

4 **SEC. 14. *Implementing Guidelines.*** – Each government body shall, within sixty (60)
5 days from the effectivity of this Act, promulgate guidelines specifying the office, and
6 employees from whom, and the methods and process whereby, the public may request access
7 to or obtain information which are kept in or held under its custody or Control.

8 **SEC.15. *Reports.*** – On or before March 1 of each calendar year, each government
9 body shall submit a report covering the preceding year to the Speaker of the House of
10 Representatives and President of the Senate for referral to the appropriate committees of
11 Congress. The report shall include:

- 12 (a) A copy of the implementing guidelines and rules crafted by such government body in
13 the implementation of this Act;
- 14 (b) A copy of the reproduction fee schedule under Section 6 of this act, the total proceeds
15 collected from such fees and the use of such proceeds by the government body;
- 16 (c) The number of determinations made by such government body to refuse the requests
17 for information made to such government body under Section 9, the reasons for such
18 determination;
- 19 (d) The names and titles or positions of officials responsible for the refusal of requests
20 under this Act, and the number of instances of participation of each;
- 21 (e) The number of refused requests wherein the requesting person sought remedies before
22 the Office of the Ombudsman or before the regular courts, and the names and titles or
23 positions of officials Concerned in these cases;

1 (f) A copy of the information disclosed by the government body pursuant to Section 11
2 of this act, including a description of the collaterals, whether print or electronic, used
3 in the dissemination of the said disclosed information;

4 (g) A summary of other initiatives made by the government body, whether or not
5 mandated by this Act or any other law, that sought to enhance and assist the
6 implementation of this Act; and

7 (h) Such other information which the government body deems as necessary to disclose in
8 relation to the implementation of this Act.

9 The Office of the Ombudsman shall submit an annual report on or before March 1 of
10 each calendar year, listing the number of cases filed before it under Section 10 of this Act and
11 the disposition of each case. The Solicitor General shall likewise submit an annual report on
12 or before March 1 of each calendar year, listing the number of cases filed before the regular
13 Courts under Section 10 of this Act, the disposition of each case, the names and positions or
14 titles of the officials penalized and the penalties assessed.

15 **SEC. 16. Oversight Committee.** – For the effective implementation of this Act, there
16 shall be a Congressional Oversight Committee consisting of five (5) members each from the
17 Senate and House Representatives, which shall be composed of the Chairpersons and
18 members of the Committees on Agriculture, Trade and Commerce, and Justice and Human
19 Rights of both the Senate and House of Representatives, which shall meet bi-annually to
20 oversee its implementation. The Congressional Oversight Committee shall be jointly chaired
21 by the Chairpersons of the Committees on Agriculture and Trade and Commerce of the
22 Senate and House and Representatives and shall be jointly vice-chaired by the Chairpersons
23 of the Committees on Justice and Human Rights of the Senate and House and
24 Representatives.

1 **SEC. 17. *Separability Clause.*** – If for any reason, any part, section or provision of
2 this Act shall be held unconstitutional or invalid, no other part, section or provision shall be
3 affected thereby,

4 **SEC. 18. *Repealing Clause.*** – All laws, decrees, executive orders, rules and
5 regulations, issuances or any parts thereof inconsistent with the provisions of this Act are
6 deemed repealed or amended accordingly.

7 **SEC. 19. *Effectivity Clause.*** – This Act shall take effect immediately after its
8 publication in at least two (2) national newspapers of general circulation.

9 *Approved,*