

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 7219



Introduced by **HON. KRISTINE ALEXIE B. TUTOR**
Third District, Bohol

EXPLANATORY NOTE

*"This is a time [COVID-19 pandemic] when, more than ever, governments need to be open and transparent, responsive and accountable to the people they are seeking to protect." -
UN Secretary-General António Guterres*

A citizen's right to official information is essential for democracy. Individuals with ready access to public documents discern better, and are able to meaningfully exercise sovereignty over their government.

No less than Article II, Sec. 28 of the 1987 Philippine Constitution affirms: "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 government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law."

The Constitution also underscores that government must operate with utmost transparency and accountability. Article III, Sec. 7 of the Constitution declares: "Subject to reasonable conditions prescribed by the law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest."

The foregoing measure affirms these constitutional imperatives by establishing broad guidelines and procedures that operationalize them. Without such framework, the rights and obligations enshrined under the Constitution would be meaningless, allowing government to operate under a shroud of secrecy and away from public scrutiny.

Hence, this bill narrows the opportunity for abuse and helps restore trust and confidence in government. Anti-corruption statutes cannot be fully enforced if there are no disclosure and information statutes.

In February 2020, UN Secretary-General António Guterres launched his Call to Action program to put human dignity and the promise of the Universal Declaration of Human Rights at the core of the government's work in combating the COVID-19 pandemic.

The Freedom of expression organization ARTICLE 19 in May 2020 in its report, *Ensuring the Public's Right to Know in the COVID-19 Pandemic*, has highlighted several threats to

governments' obligations on access to information and public health under human rights law. These include:

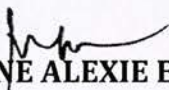
- Governments trying to limit criticism of poor decision-making or as a larger effort to restrict human rights or hide corruption
- Emergency legislation that limits access to information about the pandemic and/or extends the deadlines by which governments have to respond
- Public access to information not being prioritised while public services are reduced.

On 16 March 2020, the Presidential Communications Operations Office (PCCO), the agency tasked to implement the Freedom on Information (FOI) program of the government, issued Advisory No. 01 s. 2020 which suspends the period to respond to all FOI request due to COVID-19. The advisory not only suspends the time to respond to the request of the public but also limits the access to information regarding governance information including legal and regulatory measures to address the COVID-19 pandemic and data, analyses, and reports on the current and estimated economic impacts and government measures to mitigate the impact of pandemic, among others. To prevent this from happening in the future public health crisis or emergencies, this proposed measure ensures continuity of government transactions and services even in unprecedented times of crises such COVID-19 pandemic, calamities, other public health emergencies, civil unrest and other emergency or crisis situation by mandating all public documents be made available in digital format so that government officials and employees working remotely shall continue to serve the Filipino people.

For the effective implementation of FOI program and all other FOI programs or initiatives in the government, this bill mandates the Philippine Communications Operations Office (PCCO) to be the lead agency in implementing the provisions of the proposed legislative measure.

This bill would significantly help our government better serve the needs of the people. The passage of the FOI bill will signal the beginning of the realization of our quest for good governance, transparency and accountability. Filipinos look forward to the day when an open and accountable government serves them, their interests and common aspirations.

Approval of this measure is therefore earnestly requested.


REP. KRISTINE ALEXIE B. TUTOR

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Introduced by **HON. KRISTINE ALEXIE B. TUTOR**
Third District, Bohol

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

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

1 **Section 1. Short Title.** – This Act shall be known as the "*People's Freedom of*
2 *Information Act of 2020.*"
3

4 **Sec. 2. Declaration of Policy.** – The State recognizes the right of the people to
5 information on matters of public concern and adopts and implements a policy of full
6 public disclosure of all its transactions involving public interest, subject to the procedures
7 and limitations provided by this Act. This right is meant to enhance the significant and
8 widening role of the citizenry in governmental decision-making as well as in checking
9 abuse in government. Public officials and employees, in the performance of their duties
10 under this Act, as well as citizens in the exercise of their rights under this Act, shall act
11 with justice, give everyone his or her due, and observe honesty and good faith.
12

13 Public officials and employees as well as citizens shall endeavor to handle
14 information kept or obtained under this Act with due care, to the end that inaccuracies
15 and distortions are avoided.
16

17 It is hereby declared the policy of the state to ensure continuity of all government
18 transactions and services in unprecedented times of crises such as covid-19 pandemic,
19 calamities, other public health emergencies, civil unrest, and other emergency or crisis
20 situation.
21

22 **Sec. 3. Definition of Terms.** – As used in this Act:

- 23 (a) *Information* refers to any record, document, paper, report, letters, contract, minutes
24 and transcripts of official meetings, maps, books, photographs, data, research
25 material, film, sound and video recordings, magnetic or other tapes, electronic
26 data, computer stored data, or any other like or similar data or material recorded,
27 stored or archived in whatever form or format, which are made, received or kept

1 in or under the control and custody of any government agency pursuant to law,
2 executive order, rules and regulations, ordinance or in connection with the
3 performance or transaction of official business by any government agency.

4 (b) *Official record/records* refer to information produced or received by a public officer
5 or employee, or by a government agency in an official capacity or pursuant to a
6 public function or duty, regardless of whether the information is in the draft, final
7 or any other stage or status.

8 (c) *Public record/records* refer to information required by law, executive orders, rules,
9 or regulations to be entered, kept and made publicly available by a government
10 agency.

11
12 **Sec. 4. Coverage.** – This Act shall cover all government agencies, Government
13 agency or agencies shall include the executive, legislative and judicial branches as well
14 as constitutional bodies of the Republic of the Philippines including but not limited to the
15 national government and all its agencies, departments, bureaus, offices and
16 instrumentalities, constitutional commissions and constitutionally mandated bodies,
17 local governments and all their agencies, regulatory agencies, chartered institutions,
18 government-owned or controlled corporations, including wholly-owned or controlled
19 subsidiaries, government financial institutions, state universities and colleges, the
20 Armed Forces of the Philippines, the Philippine National Police, all offices in the Congress
21 of the Philippines including the offices of Senators and Representatives, the Supreme
22 Court and all lower courts established by law.

23
24 Public service contractors or any other entity shall make their records available to
25 the public insofar as they are related to any contract or transactions that they have with
26 the government or government agencies: *Provided*, That such contracts or transactions
27 are of the highest public interest by reason of the amounts involved and the impact of the
28 transaction to the public.

29
30 **Sec. 5. Access to Information.** – Every Filipino citizen has a right to and shall, on
31 request, be given access to any record under the control of a government agency
32 regardless of the physical form or format in which they are contained subject only to the
33 exceptions enumerated in Section 7 of this Act.

34
35 **Sec. 6. Presumption.** – There shall be a legal presumption in favor of access to
36 information. No request for information shall be denied unless it clearly falls under the
37 exceptions provided under this Act.

38
39 **Sec. 7. Exceptions.** – Access to information shall be granted unless:

- 40 (a) The information is specifically authorized to be kept secret under guidelines
41 established by an Executive Order, and in fact properly classified pursuant
42 thereto: *Provided*, That
43 (1) The information directly relates to national security or defense and its
44 revelation may cause serious damage to the national security or internal and
45 external defense of the State; or
46 (2) The information requested pertains to the foreign affairs of the Republic of the
47 Philippines, when its revelation shall unduly weaken the negotiating position
48 of the government in an ongoing bilateral or multilateral negotiation or
49 seriously jeopardize the diplomatic relations of the Philippines with any state:

- 1 *Provided, further,* That the Executive Order shall specify the reasonable period
2 after which the information shall be automatically declassified or subject to
3 mandatory declassification review, and that any reasonable doubt as to
4 classification and declassification shall be settled in favor of the right to
5 information;
- 6 (b) The information consist of records of minutes, advice given or opinions expressed
7 during decision-making or policy formulation, invoked by the Chief Executive to
8 be privileged by reason of the, sensitivity of the subject matter or by reason of the
9 impairment of the Chief Executive's deliberative process that would result from
10 the disclosure thereof. Once policy has been formulated and decisions made,
11 minutes and research data may be made available for disclosure unless they were
12 made in executive session;
- 13 (c) The information requested pertains to internal and/or external defense, law
14 enforcement, and border control, when the disclosure thereof may:
- 15 (1) Compromise or interfere with any legitimate military or law enforcement
16 operation, or
17 (2) Compromise or interfere with the legitimate prevention, detection or
18 suppression of criminal activity, or the legitimate implementation of
19 immigration controls and border security, or
20 (3) Lead to the disclosure of the identity of a confidential source, including a
21 government, or foreign agency or authority or any private institution which
22 furnished information on a confidential basis, and, in the case of a record or
23 information compiled by a law enforcement authority in the course of an
24 investigation or by an agency conducting a lawful national security intelligence
25 investigation, information furnished by a confidential source, or
26 (4) Disclose legitimate techniques and procedures for law enforcement
27 investigations or prosecutions, or would disclose legitimate guidelines for law
28 enforcement investigations or prosecutions if such disclosure could
29 reasonably be expected to risk circumvention of the law, or
30 (5) Endanger the life or physical safety of any individual, or
31 (6) Deprive a person of a right to a fair trial and impartial adjudication.
- 32 (d) The information requested consists of drafts of orders, resolutions, decisions,
33 memoranda or audit reports by any executive, administrative, regulatory,
34 constitutional, judicial or quasi-judicial body in the exercise of their regulatory,
35 audit and adjudicatory function;
- 36 (e) The information requested is obtained by either House of Congress, or any
37 Committee thereof, in executive session;
- 38 (f) The information requested pertains to the personal information of a natural
39 person other than the requesting party, and its disclosure would constitute an
40 unwarranted invasion of his or her personal privacy, unless it forms part of a
41 public record, or the person is or was an official of a government agency and the
42 information relates to his other public function or the person has consented, in
43 writing, to the disclosure of the information;
- 44 (g) The information requested pertains to trade secrets and commercial or financial
45 information obtained from a natural or juridical person other than the requesting
46 party, obtained in confidence or covered by privileged communication, and/or
47 filed with a government agency, whenever the revelation thereof would prejudice
48 the interests of such natural or juridical person in trade, industrial, financial or
49 commercial competition;

- 1 (h) The information is classified as privileged communications in legal proceedings
2 bylaw or by the Rules of Court;
- 3 (i) The information requested is exempted from disclosure by law or by the
4 Constitution, in addition to those provided in this Section;
- 5 (j) The information is of a nature that its premature disclosure would: (1) in the case
6 of an agency that regulates or deals with currencies, interest rates, securities,
7 commodities, or financial institutions, be likely to lead speculations in currencies,
8 interest rates, securities, or commodities market; or (2) in the case of other
9 agencies, be likely to frustrate the effective implementation of a proposed official
10 action: *Provided*, That the information shall be disclosed once the
11 abovementioned dangers have ceased; or
- 12 (k) The information has already been made accessible as provided in Section 16 of
13 this Act.
14

15 For paragraphs (c) to (k) of this Section, the determination whether any of these
16 grounds shall apply shall be the responsibility of the head of office of the government
17 agency in custody or control of the information, or any responsible central or field officers
18 duly designated by him: *Provided*, That:

- 19 (1) The exceptions are strictly construed;
- 20 (2) The exceptions are not used to cover-up a crime, wrong-doing, graft, or
21 corruption;
- 22 (3) The President, the Supreme Court, the Senate, the House of Representatives,
23 and the Constitutional Commissions may waive an exception with respect to
24 information in the custody of offices under their respective supervision or
25 control, when they deem that there is an overriding public interest in
26 disclosure;
- 27 (4) The exceptions do not constitute authority to withhold information from
28 Congress, nor authority for the executive branch of a local government unit to
29 withhold information from the legislative body of such local government unit;
- 30 (5) Whenever the information requested is part of a record, whose other parts are
31 covered by an exception, but may be reasonably severed from a record, the
32 responding official shall communicate the information not covered by the
33 exception to the requester; and;
- 34 (6) The exceptions set forth in this Section may be overcome if the requester is
35 able to prove before the Ombudsman or a court of competent jurisdiction that
36 the public interest in the disclosure of information outweighs the public
37 interest in keeping the information secret or confidential.

38 *Sec. 8. Mandatory Disclosure of Information. -*

- 39 (a) In fulfillment of Article XI, Section 17 of the Constitution, the following national
40 officials shall disclose to the public their Statement of Assets, Liabilities, and Net
41 Worth (SALN) on an annual basis in their official website:
- 42 1. President;
 - 43 2. Vice-President;
 - 44 3. Members of the Cabinet;
 - 45 4. Members of Congress;
 - 46 5. Justices of Supreme Court;
 - 47 6. Members of Constitutional Commissions and other constitutional offices,
 - 48 7. Officers of the armed forces with general or flag rank.

(b) All agencies of all branches of government shall upload on their websites, which shall be updated monthly, a register of the following public interest transactions, documents or records, including:

1. Annual Budget of Government Agencies;
2. Itemized Monthly Collections and Disbursement;
3. Summary of Income and Expenditures;
4. Component of the Internal Revenue Allotment (IRA) Utilization;
5. Annual Procurement Plan and Procurement List;
6. An updated plantilla of positions and vacant positions with qualifications/requirements in their organizations that need to be filled-up;
7. Items to Bid;
8. Bid Results on Civil Works, and Goods and Services;
9. Abstract of Bids as Calculated;
10. Procurement contracts entered into by a government agency;
11. Construction or concession agreements or contracts entered into by a government agency with any domestic or foreign person or entity;
12. Private sector participation agreements or contracts in infrastructure and development projects under Republic Act No. 6957, as amended by Republic Act No. 7718, authorizing the financing, construction, operation and maintenance of infrastructure projects;
13. Public funding extended to any private entity;
14. Bilateral or multilateral agreements and treaties in trade, economic partnership, investments, cooperation and similar binding commitments;
15. Licenses, permits or agreements granted by any government agency to any person or entity for the extraction and/or utilization of natural resources and a list of the grantees;
16. Guarantees given by any government agency to government-owned or -controlled corporations and to private corporations, persons or entities;
17. Loans from domestic and foreign financial institutions;
18. Loans, grants, development assistance, technical assistance, and programs entered into by a government agency with official bilateral or multilateral agencies, as well as with private aid agencies or institutions; and
19. Compromise agreements entered into by a government agency with any person or entity.

The register shall contain a brief description of the transaction involved, including, but not limited to: the nature and object of the transaction, the parties and amounts involved, the key steps undertaken towards its conclusion, and the relevant dates: *Provided*, That contracts and agreements involving an amount of at least Fifty Million Pesos (P50,000,000.00) shall be uploaded in full on the website of the concerned government agency or the Official Gazette online. A covered record shall be enrolled in the register not later than thirty (30) working days from its perfection or issuance.

Sec. 9. Openness and Transparency in Government Agencies. – Each government agency shall regularly publish, print and disseminate at no cost to the public and in an accessible form, consistent with the provisions of Republic Act No. 9485, or the Anti-Red Tape Act of 2007, and through their website, timely, time, accurate and updated key information including, but not limited to:

- (1) A description of its mandate, structure, powers, functions, duties and decision-making processes;
- (2) A description of the frontline services it delivers and the procedure and length of time by which they may be availed of;
- (3) The names of its key officials, their powers, functions and responsibilities, and their profiles and curriculum vitae;
- (4) Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures;
- (5) Important rules and regulations, orders or decisions: *Provided*, That they be published within fifteen (15) calendar days from promulgation;
- (6) 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;
- (7) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency, including subsequent amendments;
- (8) Current and important database and statistics that it generates;
- (9) Bidding processes and requirements; and
- (10) Mechanisms or procedures by which the public may participate in or otherwise influence the formulation of policy or the exercise of its powers

All government agencies shall over time endeavor and build the capacity and practice to upload in full all other contracts, agreements, or treaties covered under this Section, in particular those that are of the highest public interest by reason of the amounts involved and the impact of the transaction to the public.

Sec. 10. Protection of Privacy. – While providing for access to information in public records, this Act also affords full protection of the right to privacy of individuals, as follows:

- (a) A government agency must ensure that personal information in its custody or under its control is disclosed only as permitted under this Act;
- (b) A government agency must protect personal information in its custody or under its control by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure, or disposal; and
- (c) An employee, officer or director of a government agency, who has access, whether authorized or unauthorized, to personal information in the custody of the agency, must not disclose that information except as authorized UNDER this Act.

Sec. 11. Freedom of Information Manual. –

- (a) For the effective implementation of this Act, all government agencies shall prepare a Freedom of Information (FOI) Manual, indicating the following:
 1. The location and contact information of the head, regional, provincial and field offices, and other established places where the public can obtain government information or submit requests;
 2. The types of information it generates, produces, holds and/or publishes;
 3. A description of its record-keeping system;
 4. The person or office responsible for receiving requests for information;
 5. The procedure for the filing of requests personally, by mail, or through the identified electronic means;

6. The standard forms for the submission of request and for the proper acknowledgment of the request;
 7. The process for the disposition of the request, including the routing of the request to the person or office with the duty to act on the request, the decision making process, and the grant or denial of access and its implementation;
 8. The procedure for the administrative appeal of any denial for access to information;
 9. The schedule of fees;
 10. The process and procedure for the mandatory disclosure of information under Section 8 of this Act: *Provided*, That, should the agency lack the capacity to fully comply therewith, a brief description of its plan to facilitate compliance within three (3) years from the approval of this Act; and
 11. Such other information, taking into consideration the unique characteristics of an agency, that will help facilitate the effective implementation of this Act.
- (b) The foregoing information shall also be posted in its website and bulletin boards, and shall be regularly updated;
- (c) In no case shall the absence of the aforementioned Manual be a reason for the denial of any request for information made in accordance with this Act.
- (d) The heads of each of the departments and agencies may designate liaison units or Committees who shall coordinate with the other units of the agency in implementing this Act. The composition, functions and duties of these liaison units or Committees shall be included in the FOI Manual.

Sec. 12. Procedure of Access. -

- (a) Any person who wishes to obtain information shall submit, free of charge, a request to the government agency concerned personally, by mail, or through electronic means. A person who is unable, because of illiteracy or due to being a person with disability, to make a written request for information may make an oral request, and the public official who receives the oral request shall reduce it to writing, and include his name and position within the government agency, and give a copy thereof to the person who made the request. The request shall state the name and preferred contact information of the requesting party, and reasonably describe the information required, the reason for the request of the information and the preferred means by which the government agency shall communicate such information to the requesting party: *Provided*, That the stated reason shall not be used as a ground to deny the request or to refuse the acceptance of the request, unless such reason is contrary to law. If the request is submitted personally, the requesting party shall show their current identification card issued by any government agency, or government or private employer or school, or a community tax certificate]. If the request is submitted by mail or through electronic means, the requesting party may submit a photo static or electronically scanned copy of the identification, or other convenient means as determined by the agency.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable all requesters and particularly those with special needs, to comply with the request requirements under this Section.
- (c) The request shall be stamped by the government agency, indicating the date and time of receipt and the name, rank, title and position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to

- 1 the requesting party. In case the request is submitted by electronic means, the
2 government agency shall provide for an equivalent means by which the
3 requirements of this paragraph shall be met. Each government agency shall
4 establish a system to trace the status of all requests for information received by it.
- 5 (d) The request may indicate the requesting party's preferred mode and means of
6 receiving the information requested: *Provided*, That the mode and means are
7 reasonable, taking into consideration equipment normally available to the
8 concerned government agency.
- 9 (e) A government agency may communicate the information requested in a form
10 other than the preferred means whenever the agency has no capability in
11 communicating the information in the preferred format, or such preferred means
12 would unreasonably interfere with the effective operation of the agency or be
13 detrimental to the preservation of the record.
- 14 (f) The government agency shall comply with such request as soon as practicable, and
15 in any case within fifteen (15) working days from the receipt thereof even in
16 unprecedented times of crises such as covid-19 pandemic, calamities, other public
17 health emergencies, civil unrest, and other emergency or crisis situation. The
18 period may be extended whenever the information requested requires a search of
19 the government agency's field or satellite offices, examination of voluminous
20 records, the occurrence of fortuitous events or other analogous cases.
- 21 (g) The government agency shall, in writing or through electronic means, notify the
22 person making the request of the extension, setting forth the reasons for such
23 extension and the date when the information shall be made available, which in no
24 case shall result in an extension of more than twenty (20) working days.
- 25 (h) Once a decision is made to grant the request, the person making the request shall
26 be notified of such and shall pay the required access and processing fees. If the
27 information is not held by the government agency to which the request was made,
28 it shall notify the requester that it does not hold the information, and indicate to
29 the requester which agency holds the record, if known. Whenever practicable, the
30 agency receiving the request may also cause the transfer of the request to the
31 appropriate agency that holds the information: *Provided*, That the period to
32 comply with the request under this Section shall begin to run only upon the receipt
33 of the agency to which the request is transferred.

34
35 **Sec. 13. Digitization of all public documents.** - All public documents shall be
36 made available in digital format.

37
38 **Sec. 14. Access and Processing Fees.** - Government agencies may charge a
39 reasonable fee to reimburse the actual cost of reproduction, copying or transcription and
40 the communication of the information requested. An agency may waive the fees
41 whenever it is satisfied that the requester is an indigent, or that the cost of reproduction
42 is negligible, or that it is pursuant to a program for proactive disclosure.

43
44 **Sec. 15. Exemption from Compliance.** - The government agency is excused from
45 complying with a subsequent identical or substantially similar request from the same
46 requesting party where it has previously complied with a request for information unless
47 a reasonable interval has lapsed between compliance with the previous request and the
48 making of the current request: *Provided*, That the government agency complies with
49 Section 16 of this Act.

1 **Sec. 16. Notice of Denial.** – If the government agency decides to deny the request,
2 in whole or in part, it shall, as soon as practicable, and in any case within fifteen (15)
3 calendar 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 clearly set forth the
5 ground or grounds for denial and the circumstances on which the denial is based, and
6 indicate available rights of reconsideration or appeal. Failure to notify the person making
7 the request of the denial, or of the extension, shall be deemed a denial of the request for
8 access to information.
9

10 **Sec. 17. Remedies in Cases of Denial of Request for Information.** –

- 11 (a) In all government agencies other than the judicial branch:
- 12 i. Every denial of any request for access to information may be appealed to the
13 person or office next higher in authority of the same agency, following the
14 procedure mentioned in Section 11 (a) (8) of this Act: *Provided*, That the
15 written appeal must be filed by the same person making the request within
16 fifteen (15) calendar days from the notice of denial. The appeal shall be
17 decided by the person or office next higher in authority of the same agency
18 within five (5) working days from filing of said written appeal. Failure of the
19 government agency to decide within the aforesated period shall constitute
20 denial of the appeal.
- 21 ii. Upon denial of the appeal with the government agency, the requesting party
22 may file a verified petition for mandamus in the proper court, alleging the facts
23 with certainty and praying that judgment be rendered ordering the
24 respondent, immediately or at some other time to be specified by the court, to
25 disclose the requested information. Any action for administrative and/or
26 criminal liability arising from the same act or omission, if any, shall be filed
27 with the Office of the Ombudsman. No damages shall be assessed against the
28 respondent unless it is proven that the respondent acted with malice, bad faith
29 or negligence. The procedure for such petition shall be summary in nature. The
30 court hearing the case is empowered to receive the information subject of a
31 claim of exception under Section 7 herein and examine then in camera to
32 determine the sufficiency of the factual and legal basis of such claim, when
33 such sufficiency cannot be reasonably determined through evidence and
34 circumstances apart from the information.
- 35 (b) In the Judicial Branch, the judiciary shall be governed by such remedies as
36 promulgated by the Supreme Court.
- 37 (c) The remedies provided in this Section are without prejudice to any other
38 administrative, civil or criminal action covering the same act.
- 39 (d) The remedies available under this Act shall be cumulative and subject to the rule
40 of exhaustion of administrative remedies.
- 41 (e) The provisions of Republic Act No. 9285, otherwise known as the Alternative
42 Dispute Resolution Act of 2004, shall not apply to cases filed pursuant to this
43 Section.
- 44 (f) In case the requesting party has limited or no financial capacity, the Public
45 Attorney's Office shall be mandated to provide legal assistance to the requester in
46 availing of the remedies provided under this Act.

Sec. 18. Keeping of Records. –

- (a) Government agencies shall create and/or maintain in appropriate formats, accurate and reasonably complete documentation or records of their organization, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, activities, communications and documents received or filed with them and the data generated or collected. These shall include working files such as drafts or notes, whenever these have been circulated within the agency for official purpose such as for discussion, comment or approval or when these contain unique information that can substantially contribute to a proper understanding of the agency organization, policies, transactions, decisions, resolutions, enactments, actions, procedures, operations, and activities;
- (b) Government agencies shall identify specific and classes of official records in their custody or control that have continuing historical, administrative, informational, legal, evidentiary, or research value for preservation by such agencies or their legitimate successors, or for transfer to the National Archives of the Philippines. In addition, the National Archives of the Philippines shall likewise identify specific and classes of official records that it shall require agencies to preserve and transfer to it.
- (c) In addition to the specific and classes of official records identified for preservation under letter (b) of this Section, the following shall not be destroyed:
 - 1. Records pertaining to loans obtained or guaranteed by the government;
 - 2. Records of government contracts;
 - 3. The declaration under oath of the assets, liabilities and net worth of public officers and employees, as required by law; and
 - 4. Records of official investigations pertaining to allegations of graft and corruption of public officers.
- (d) Government agencies shall prepare, following standards and period promulgated pursuant to Republic Act No. 9470 or the National Archives of the Philippines Act of 2007, records management program that includes the following:
 - 1. A records maintenance system for the creation, selection, classification, indexing and filing of official records that facilitate the easy identification, retrieval and communication of information to the public;
 - 2. A records maintenance, archival and disposition schedule providing a listing of records under current use, for retention by the agency, for transfer to the National Archives, as for destruction: *Provided*, That destruction of the official records may be implemented only upon approval of the National Archives of the Philippines; and
 - 3. A specification of the roles and responsibilities of agency personnel in the implementation of such system and schedule.
- (e) In addition to its function as repository of all rules and regulations issued by agencies as provided under Book VII, Chapter II of the Administrative Code of 1987, the University of the Philippines Law Center shall, in coordination with the Office of the President which has exclusive editorial and printing jurisdiction over the Official Gazette, and with other relevant agencies, maintain a database, and publish the same in print in the Official Gazette or in digital or online form, the following:
 - 1. All laws of the Philippines and their amendments, from the period of the Philippine Commission to the present;

2. All presidential issuances from November 15, 1935 to the present, including but not limited, to executive orders, presidential proclamations, administrative orders, memorandum circulars, general orders, and other similar issuances;
3. A database of all appointments and designations made by the President of the Philippines; and
4. Opinions of the Secretary of Justice.

Sec. 19. Publication in the Official Gazette. – For purposes of mandatory disclosure as provided in Section 8 of this Act, online publication in the Official Gazette website shall be considered official publication provided there shall be a timestamp in the said document.

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

- (a) All important legislative acts and resolutions of a public nature of the Congress of the Philippines;
- (b) All executive and administrative orders and proclamations of general application;
- (c) Decisions or abstracts of decisions of the Supreme Court and the Court of Appeals or other courts of similar rank, as may be deemed by said courts of sufficient importance to be so published;
- (d) Such documents or classes of documents as the President shall determine from time to time to have general application or which he may authorize to be published. However, other documents or classes of documents as may be required to be published by law, such as petitions and/or legal notices in connection with land titles, naturalization or special proceedings shall continue to be published in the print version of the Official Gazette or in any newspaper of general circulation for purposes of compliance with the publication requirement.

Sec. 20. Capacity-Building, Promotion of Best Practices and Continuous Updating of Appropriate Information Technology and FOI. – All government agencies must ensure that they have a compliant website within two (2) years from the date of effectivity of this Act. The National Computer Center (NCC) shall monitor all government agency websites and render the appropriate support including capacity-building program and coordination with another appropriate agency, utilizing alternative mechanism and seeking the assistance of private relevant and willing volunteer groups to ensure full compliance with the requirements of this Act.

In the performance of its monitoring function of government websites and portals, the NCC shall endeavor to continuously develop, improve and update its information technology system taking into consideration usability and practical accessibility of government documents by the public.

Every government agency shall ensure the provision of adequate training for its officials to improve awareness of the people's right to information and the provisions of this Act, and to keep updated as to best practices in relation to information disclosure, records maintenance and archiving.

1 **Sec. 21. Use of Plain Language.** – Every government agency shall endeavor to use
2 plain language in their communications orders, compliance, requirements or instructions
3 issued to implement the provisions of this Act. The government agencies shall translate
4 key information into major Filipino languages and present them in popular form and
5 means.

- 6 (1) To carry out the provision of this Act, the Civil Service Commission (CSC) is
7 designated to issue guidelines on the use of plain language to suit the needs of the
8 requesting party;
- 9 (2) The CSC shall provide the necessary training to employees of each government
10 agency in using plain language in public documents;
- 11 (3) All departments, agencies and instrumentalities of the national government,
12 including government-owned or controlled corporations, local government units
13 and state colleges and universities shall designate an official responsible for
14 implementing the plain language; and
- 15 (4) Website contents, including, but not limited to financial data, notices and other
16 technical and legal documents, of government agencies must also be written in
17 plain language to ensure that the information are easy to read, understand and
18 use.

19
20 **Sec. 22. Administrative Offenses and Penalties.** –

- 21 (a) The acts enumerated in this sub-section shall be tantamount to grave
22 administrative offenses and shall constitute grounds for administrative and
23 disciplinary sanction against any public official or employee who willfully and
24 knowingly commits the following:
 - 25 1. Refusal to promptly forward the request under Section 12 of this Act to the
26 public officer within the same office or agency responsible for officially acting
27 on the request when such is the direct cause of the failure to disclose the
28 information within the periods required by this Act;
 - 29 2. Failure to act on the request within the periods required by this Act;
 - 30 3. Refusal to comply with the decision of his OR HER immediate supervisor, the
31 Ombudsman, or of any court ordering the release of information;
 - 32 4. Approval of policies, rules and regulations clearly contrary to the provisions of
33 this Act, and which policies, rules and regulations are the direct cause of the
34 denial of a request for information.
- 35 (b) The preceding subsection does not bar filing of appropriate administrative cases
36 other than those grave offenses enumerated above.

37
38 **Sec. 23. Criminal Offenses and Penalties.** – The penalty of imprisonment of not
39 less than one (1) month but not more than six (6) months and a fine ranging from Ten
40 Thousand Pesos (P10,000.00) to One Hundred Thousand Pesos (P100,000.00) shall be
41 imposed upon:

- 42 (a) Any public official or employee who falsely denies or conceals the existence of
43 information that is a proper subject for disclosure under this Act.
- 44 (b) Any public official or employee who destroys, or causes to be destroyed,
45 information and/or documents being requested under this Act, for the purpose of
46 frustrating the requesting party's access thereto.
- 47 (c) Any individual who knowingly directed, induced or caused the commission of the
48 foregoing acts shall be liable as principal by inducement in the prosecution of
49 public officials or employees under this section.

- 1 (d) Any public officer or employee responsible for officially acting on the request, who
2 shall claim an exception under Section 7 of this Act, or under the Constitution,
3 when such claim is manifestly devoid of factual basis.
- 4 (e) Any public officer or employee who divulged or released information covered
5 under Section 7 of this Act.
- 6 (f) Any public officer or employee who divulged or released information that is
7 altered, tampered or modified to the extent that the released information
8 materially differs from the original contents of the document: *Provided*, That
9 altering or modifying a document for the purpose of severing an exempt
10 information from non-exempt information in a single document shall not be
11 punishable under this subsection.
12

13 If the violation committed in this Act is induced and assisted by a private
14 individual or a corporation, partnership or any kind of judicial entity, the penalty
15 provided herein shall be imposed on its executive officer and/or other officials
16 responsible therefor: *Provided*, That they shall suffer, in addition to the penalties
17 provided herein, the automatic revocation of their license to operate.
18

19 **Sec. 24. Mere Denial in Good Faith Not a Ground for Liability.** – A mere denial
20 in good faith of a request made pursuant to the provisions of this Act shall not constitute
21 grounds for administrative, civil or criminal liability.
22

23 **Sec. 25. Act Not a Bar to Claim of Right to Information Under the Constitution.**
24 – No provision of this Act shall be interpreted as a bar to any claim of the right to
25 information under Article III, Section 7 of the 1987 Constitution.
26

27 **Sec. 26. Integration of Freedom of Information (FOI) and Good Governance in**
28 **Elementary and Secondary Curriculum.** – To ensure well-informed generations of
29 citizens, the right to information, the principles of accountability and transparency,
30 democracy and leadership, and good governance shall be integrated in such subjects as
31 Heyograpiya, Kasaysayan at Sibika (HEKASI) and Araling Panlipunan in the elementary
32 level and in such subjects as Social Studies and Makabayan or its equivalent subjects in
33 high school level. The Department of Education in coordination with the CSC and other
34 relevant offices shall prepare the necessary modules and teaching programs consistent
35 with the objectives of this Act.
36

37 **Sec. 27. Reports on FOI.** – All government agencies shall be required to submit
38 annual reports on the number of requests for information received and processed, of
39 appeals made from the denial thereof, and such other information as provided in this Act.
40 The said report may be integrated in the agencies' main Annual Report and its posting
41 and publication in their respective websites shall be considered as sufficient compliance.
42

43 **Sec. 28. System of Incentives and Rewards.** – A system of special incentives and
44 rewards is hereby established to be given to appropriate government agency or agencies
45 that initiated and displayed compliance and full participation in the meaningful
46 implementation of this Act. The incentives and rewards may include but not limited to
47 social projects, grants-in-aid, national recognition, and similar entitlements.

1 **Sec. 29. Role of PCOO.** – The Presidential Communications Operations Office
2 (PCOO) shall be the lead agency in the implementation of this act across all government
3 agencies. As the lead agency, the PCOO shall:

4 (a) oversee implementation of all FOI and e-FOI programs for all government
5 agencies and monitor compliance therewith;

6 (b) develop programs and mechanisms to enhance the capacity of government
7 agencies to comply with FOI programs; and

8 (c) conduct and facilitate the necessary capacity and institutional building
9 programs for all concerned government agencies and instrumentalities.

10
11 **Sec. 30. Appropriations.** – The amount necessary to carry out the provisions of
12 this Act shall be charged against the agencies' current budget and shall thereafter be
13 included in the annual General Appropriations Act.

14
15 **Sec. 31. Implementing Guidelines.** – The PCOO, CSC, DEPED and NCC shall issue
16 the guidelines necessary to implement specific provisions of this act.

17
18 **Sec. 32. Separability Clause.** – If any Section or part of this Act is held
19 unconstitutional or invalid, the other Sections or provisions not otherwise affected shall
20 remain in full force and effect.

21
22 **Sec. 33. Repealing Clause.** – All laws, decrees, executive orders, rules and
23 regulations, issuances or any part thereof inconsistent with the provisions of this Act,
24 including Sections 18, 24 and 25 of Executive Order No. 292 in relation to Article 2 of
25 Republic Act No. 386, Memorandum Circular No. 78 dated 14 August 1964 (Promulgating
26 Rules Governing Security of Classified Matter in Government Offices), as amended, and
27 Section 3, Rule IV of the Rules Implementing Republic Act No. 6713 (Code of Conduct and
28 Ethical Standards for Public Officials and Employees), are deemed repealed: *Provided,*
29 That Memorandum Circular No. 78 shall be deemed repealed after one (1) year from the
30 effectivity of this Act or upon issuance of the Executive Order in Section 7(a) whichever
31 comes first.

32
33 **Sec. 34. Effectivity.** – This Act shall take effect fifteen (15) days after its
34 publication in the *Official Gazette* or in any two (2) newspapers of general circulation in
35 the Philippines.

Approved,