


FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

SENATE
Office of the Secretary

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SENATE

S. No. **3208**

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(In substitution of Senate Bill Nos. 11, 25, 126, 149, 158, 162, 1254, 1440, 1773, 2086, 2189, 2283, 2354, and 3183)

Prepared by the Committees on Public Information and Mass Media, Civil Service and Government Reorganization and Finance with Senators Trillanes, Revilla, Jr., Osmeña III, Pangilinan, Guingona III, Committee on Rules, Villar, Legarda, Santiago, Escudero, Honasan II, Cayetano (A.) and Drilon as authors thereof.

AN ACT

FORTIFYING THE PEOPLE'S RIGHT OF OWNERSHIP OVER INFORMATION HELD BY THE PEOPLE'S GOVERNMENT

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

SECTION 1. Short Title. - This Act shall be known as the "**People's Ownership of Government Information (POGI) Act of 2012.**"

SEC. 2. Declaration of Policy. - Pursuant to the First Principle declared in Our Constitution that Sovereignty resides in the people and all government authority emanates from them, the right of the people to effective and reasonable participation at all levels of social, political and economic decision making, the right of the people to information on matters of public concern, and the policy of full public disclosure of all government transactions involving public interest, it is hereby declared that All Government Information is Owned by the People and that public access to all government information, as a general rule, serves the public interest and exceptional instances restricting access thereto, as provided herein, shall only be allowed also by reason of public interest.

SEC. 3. Coverage - This Act shall cover all branches, departments, and instrumentalities of government, including all local government units, collectively referred to as government agencies defined under Section 4 of this Act, .

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

1 (A) "Information" shall mean any record, document, paper, report, letters, contract,
2 minutes and transcripts of official meetings, maps, books, photographs, data, research
3 material, film, sound and video recordings, magnetic or other tapes, electronic data,
4 computer stored data, or any other like or similar data or material recorded, stored or
5 archived in whatever form or format, which are made, received or kept in or under the
6 control and custody of any government agency pursuant to law, executive order, rules
7 and regulations, ordinance or in connection with the performance or transaction of
8 official business by any government agency.

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

20
21 (C) "Official record/records" shall refer to information produced or received by a public
22 officer or employee, or by a government agency in an official capacity or pursuant to a
23 public function or duty, regardless of whether the information is in the draft, final, or any
24 other stage or status.

25
26 (D) "Public record/records" shall include information required by law, executive orders,
27 rules, or regulations to be entered, kept and made publicly available by a government
28 agency.

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 Government agencies shall make available to the public for scrutiny, copying and
33 reproduction in the manner provided by this Act, all information pertaining to official
34 acts, transactions or decisions, as well as government research data used as a basis for
35 policy development, subject to the exceptions enumerated under section 7 of this Act,
36 regardless of their physical form or format in which they are contained and by whom
37 they were made.

1 **SEC. 6. *Presumption.*** – There shall be a legal presumption in favor of access to
2 information. No request for information shall be denied unless it clearly falls under the
3 exceptions provided under this Act.

4
5 **SEC. 7. *Exceptions.*** – Access to information shall be granted unless:
6

7 (A) The information is specifically authorized to be kept secret under guidelines
8 established by an executive order, and in fact properly classified pursuant thereto:
9 *Provided, That* 1) The information directly relates to national security or defense and its
10 revelation may cause grave damage to the national security or internal and external
11 defense of the State; or 2) The information requested pertains to the foreign affairs of
12 the Republic of the Philippines, when its revelation may weaken the negotiating position
13 of the government in an ongoing bilateral or multilateral negotiation or seriously
14 jeopardize the diplomatic relations of the Philippines with any state; *Provided, further,*
15 That the executive order shall specify the reasonable period after which the information
16 shall be automatically declassified or subject to mandatory declassification review, and
17 that any reasonable doubt as to classification and declassification shall be settled in
18 favor of the right to information;

19
20 (B) The information consist of records of minutes, records of advice given or records of
21 opinions expressed during decision-making or policy formulation, invoked by the Chief
22 Executive to be privileged by reason of the sensitivity of the subject matter or by reason
23 of the impairment of the Chief Executive's deliberative process that would result from
24 the disclosure thereof. Once policy has been formulated and decisions made, minutes
25 and research data may be made available for disclosure unless they were made in
26 executive session.

27
28 (C) The information requested pertains to internal and/or external defense, law
29 enforcement, and border control, when the disclosure thereof may:

30
31 (i) compromise or interfere with any legitimate military or law enforcement
32 operation, or

33
34 (ii) compromise or interfere with the legitimate prevention, detection or
35 suppression of criminal activity, or the legitimate implementation of immigration controls
36 and border security, or

37
38 (iii) lead to the disclosure of the identity of a confidential source, including a

1 government, or foreign agency or authority or any private institution which furnished
2 information on a confidential basis, and, in the case of a record or information compiled
3 by a law enforcement authority in the course of an investigation or by an agency
4 conducting a lawful national security intelligence investigation, information furnished by
5 a confidential source, or

6
7 (iv) disclose legitimate techniques and procedures for law enforcement
8 investigations or prosecutions, or would disclose legitimate guidelines for law
9 enforcement investigations or prosecutions if such disclosure could reasonably be
10 expected to risk circumvention of the law, or

11
12 (v) endanger the life or physical safety of any individual.

13
14
15 (D) The information requested consists of drafts of orders, resolutions, decisions,
16 memoranda or audit reports by any executive, administrative, regulatory, constitutional,
17 judicial or quasi-judicial body in the exercise of their regulatory, audit and adjudicatory
18 function.

19
20 (E) The information requested is obtained by either House of Congress, or any
21 committee thereof, in executive session.

22
23 (F) The information requested pertains to the personal information of a natural person
24 other than the requesting party, and its disclosure would constitute an unwarranted
25 invasion of his or her personal privacy, unless it forms part of a public record, or the
26 person is or was an official of a government agency and the information relates to his or
27 her public function or the person has consented, in writing, to the disclosure of the
28 information;

29
30 (G) The information requested pertains to trade secrets and commercial or financial
31 information obtained from a natural or juridical person other than the requesting party,
32 obtained in confidence or covered by privileged communication, and/or filed with a
33 government agency, whenever the revelation thereof would prejudice the interests of
34 such natural or juridical person in trade, industrial, financial or commercial competition

35
36 (H) The information is classified as privileged communications in legal proceedings by
37 law or by the Rules of Court.

1 (I) The information requested is exempted from disclosure by law or by the Constitution,
2 in addition to those provided in this section.

3
4 (J) The information has already been made accessible as provided in Section 13 of this
5 Act.

6
7 For letters (c) to (j) of this section, the determination whether any of these grounds shall
8 apply shall be the responsibility of the head of office of the government agency in
9 custody or control of the information, or any responsible central or field officer/s duly
10 designated by him: *Provided, That:*

11 (1) The exceptions are strictly construed;

12 (2) The exceptions are not used to cover-up a crime, wrong-doing, graft, or corruption;

13 (3) The President, the Supreme Court, the Senate, the House of Representatives, and
14 the Constitutional Commissions may waive an exception with respect to information in
15 the custody of offices under their respective supervision or control, when they deem that
16 there is an overriding public interest in disclosure;

17
18 (4) The exceptions do not constitute authority to withhold information from Congress nor
19 authority for the executive branch of a local government unit to withhold information
20 from the legislative body of such local government unit;

21 (5) Whenever the information requested is part of a record, whose other parts are
22 covered by an exception, but may be reasonably severed from a record, the responding
23 official shall either sever the information not covered by the exception and
24 communicated it to the requester, or he shall edit the exempt information and render it
25 suitable for public disclosure and release the record to the requester with a specific
26 identification of the parts which were edited; and

27 (6) Even if the information requested falls under the exceptions set forth in this Section,
28 access to information shall not be denied if public interest in the disclosure of the
29 information outweighs public interest in securing its confidentiality.

30
31 **SEC. 8. Mandatory Disclosure of Information.** – Government agencies are mandated
32 to regularly disclose the following information in the duration and manner provided
33 hereunder:

34
35 (A) In fulfillment of Article XI, Section 17 of the Constitution, the following national
36 officials shall disclose to the public, through their official website, their Statement of
37 Assets, Liabilities, and Net worth (SALN) on an annual basis:

38 (1) the President;

- 1 (2) the Vice- President;
- 2 (3) the Members of the Cabinet;
- 3 (4) the Members of Congress;
- 4 (5) the Justices of Supreme Court;
- 5 (6) the Members of Constitutional Commissions and other constitutional
- 6 offices; and
- 7 (7) officers of the armed forces with general or flag rank.

8
9 (B) All agencies of all branches of government shall upload on their websites,
10 which shall be updated monthly, a register of the following public interest transactions,
11 documents or records, including:

- 12
- 13 (1) Annual Budget of Government Agencies;
- 14 (2) Itemized Monthly Collections and Disbursement;
- 15 (3) Summary of Income and Expenditures;
- 16 (4) Component of the IRA Utilization;
- 17 (5) Annual Procurement Plan and Procurement List;
- 18 (6) Items to Bid;
- 19
- 20 (7) Bid Results on Civil Works, and Goods and Services;
- 21 (8) Abstract of Bids as Calculated;
- 22 (9) Procurement contracts entered into by a government agency;
- 23 (10) Construction or concession agreements or contracts entered into by a
- 24 government agency with any domestic or foreign person or entity;
- 25 (11) Private sector participation agreements or contracts in infrastructure
- 26 and development projects under Republic Act No. 6957, as amended by
- 27 Republic Act No. 7718, authorizing the financing, construction, operation
- 28 and maintenance of infrastructure projects;
- 29 (12) Public funding extended to any private entity;
- 30 (13) Bilateral or multilateral agreements and treaties in trade, economic
- 31 partnership, investments, cooperation and similar binding commitments;
- 32 (14) Licenses, permits or agreements granted by any government agency
- 33 to any person or entity for the extraction and/or utilization of natural
- 34 resources and a list of the grantees;
- 35 (15) Guarantees given by any government agency to government-owned
- 36 or -controlled corporations and to private corporations, persons or entities;
- 37 (16) Loans from domestic and foreign financial institutions;
- 38 (17) Loans, grants, development assistance, technical assistance, and

1 programs entered into by a government agency with official bilateral or
2 multilateral agencies, as well as with private aid agencies or institutions.
3 and
4 (18) Compromise agreements entered into by a government agency with
5 any person or entity.
6

7 The register shall contain a brief description of the transaction involved, including, but
8 not limited to: the nature and object of the transaction, the parties and amounts
9 involved, the key steps undertaken towards its conclusion, and the relevant dates
10 provided that contracts and agreements involving an amount of at least fifty million
11 pesos (P50, 000,000.00) shall be uploaded in full on the website of the concerned
12 government agency or the Official Gazette Online. A covered record shall be enrolled in
13 the register not later than 30 working days from its perfection or issuance.
14

15 (C) Each government agency shall regularly publish, print and disseminate at no
16 cost to the public and in an accessible form, in conjunction with Republic Act 9485, or
17 the Anti-Red Tape Act of 2007, and through their website, timely, true, accurate and
18 updated key information including, but not limited to:
19

- 20 (1) A People's Ownership of Government Information Manual in full;
- 21 (2) A description of its mandate, structure, powers, functions, duties and
22 decision-making processes;
- 23 (3) A description of the frontline services it delivers and the procedure and length
24 of time by which they may be availed of;
- 25 (4) The names of its key officials, their powers, functions and responsibilities, and
26 their profiles and curriculum vitae;
- 27 (5) The Statement of Assets and Liabilities of the public officers of the
28 government agency;
- 29 (6) Work programs, development plans, investment plans, projects, performance
30 targets and accomplishments, and budgets, revenue allotments and
31 expenditures;
- 32 (7) Important rules and regulations, orders or decisions: *Provided*, That they be
33 published within fifteen (15) calendar days from promulgation;
- 34 (8) Rules of procedure, descriptions of forms available or the places at which
35 forms may be obtained, and instructions as to the scope and contents of all
36 papers, reports, or examinations;
- 37 (9) Substantive rules of general applicability adopted as authorized by law, and
38 statements of general policy or interpretations of general applicability formulated

1 and adopted by the agency, including subsequent amendments;

2 (10) Current and important database and statistics that it generates;

3 (11) Bidding processes and requirements; and

4 (12) Mechanisms or procedures by which the public may participate in or
5 otherwise influence the formulation of policy or the exercise of its powers.

6
7 All government agencies shall over time endeavor and build the capacity and practice to
8 upload in full all other contracts, agreements, or treaties covered under this section.
9 specially those that are of the highest public interest by reason of the amounts involved
10 and the impact of the transaction to the public. All government agencies must ensure
11 that they have a compliant website within two (2) years from the effectivity of this Act.

12
13 Should an agency lack the capacity to comply with the website uploading requirement of
14 this section, the agency shall initiate a capacity-building program, coordinate with
15 another appropriate agency, or use an alternative mechanism, to facilitate substantive
16 compliance not later than three (3) years from the effectivity of this Act. The National
17 Computer Center shall monitor all government agency websites and render the
18 appropriate support for their development and full compliance with the requirements of
19 this Act.

20
21 For purposes of improving capability, every government agency shall ensure the
22 provision of adequate training for its officials to improve awareness of the people's
23 ownership of government information and the provisions of this Act, and to keep
24 updated as to best practices in relation to information disclosure, records maintenance
25 and archiving.

26
27
28 In order to develop accessibility of language and form, every government agency shall
29 endeavor to translate key information into major Filipino languages and present them in
30 popular form and means.

31
32 **SEC. 9. *Protection of Privacy*** – While providing for access to information in public
33 records, this Act also affords full protection of the right to privacy of individuals, as
34 follows:

35
36 (a) A government agency must ensure that personal information in its custody or under
37 its control is disclosed only as permitted under this Act;

38 (b) A government agency must protect personal information in its custody or under its

1 control by making reasonable security arrangements against such risks as unauthorized
2 access, collection, use, disclosure, or disposal;

3
4 (c) An employee, officer or director of a government agency who has access, whether
5 authorized or unauthorized, to personal information in the custody of the agency, must
6 not disclose that information except as authorized under this Act.

7
8 **SEC. 10. *People's Ownership of Government Information Manual.*** – (A) For the
9 effective implementation of this Act, all government agencies shall prepare a People's
10 *Ownership of Government Information Manual*, setting forth the following:

11
12 (1) The location and contact information of the head, regional, provincial and field
13 offices, and other established places where the public can obtain government
14 information or submit requests;

15 (2) The types of information it generates, produces, holds and/or publishes;

16 (3) A description of its record-keeping system;

17 (4) The person or office responsible for receiving requests for information;

18 (5) The procedure for the filing of requests personally, by mail, or through the
19 identified electronic means;

20 (6) The standard forms for the submission of request and for the proper
21 acknowledgment of the request;

22 (7) The process for the disposition of the request, including the routing of the
23 request to the person or office with the duty to act on the request, the decision-
24 making process, and the grant or denial of access and its implementation;

25 (8) The procedure for the administrative appeal of any denial for access to
26 information;

27 (9) The schedule of fees;

28 (10) The process and procedure for the mandatory disclosure of information
29 under Section 8 of this Act: *Provided*, That should the agency lack the capacity
30 to fully comply therewith, a brief description of its plan to facilitate compliance
31 within three (3) years from the approval of this Act; and

32 (11) Such other information, taking into consideration the unique characteristics
33 of an agency, that will help facilitate the effective implementation of this Act.

34
35 (b) The foregoing information shall also be posted in its website and bulletin boards, and
36 shall be regularly updated;

37
38 (c) In no case shall the absence of the aforementioned Manual be a reason for the

1 denial of any request for information made in accordance with this Act.

2
3 (d) The heads of each of the departments and agencies may designate liaison units or
4 Committees who shall coordinate with the other units of the agency in implementing this
5 Act. The composition, functions and duties of these liaison units or Committees shall be
6 included in the People's Ownership of Government Information Manual.

7
8 **SEC. 11. Procedure of Access.** – (A) Any person who wishes to obtain information
9 shall submit, free of charge, a request to the government agency concerned personally,
10 by mail, or through electronic means. A person who is unable, because of illiteracy or
11 due to being a person with disability, to make a written request for information may
12 make an oral request, and the public official who receives the oral request shall reduce
13 it to writing, and include his name and position within the government agency, and give
14 a copy thereof to the person who made the request. The request shall state the name
15 and preferred contact information of the requesting party, and reasonably describe the
16 information required, the reason for the request of the information and the preferred
17 means by which the government agency shall communicate such information to the
18 requesting party: *Provided*, That the stated reason shall not be used as a ground to
19 deny the request or to refuse the acceptance of the request, unless such reason is
20 contrary to law. If the request is submitted personally, the requesting party shall show
21 his current identification card issued by any government agency, or government or
22 private employer or school, or a community tax certificate. If the request is submitted by
23 mail or through electronic means, the requesting party may submit a photostatic or
24 electronically scanned copy of the identification, or other convenient means as
25 determined by the agency.

26
27 (B) The public official receiving the request shall provide reasonable assistance, free of
28 charge, to enable all requesters and particularly those with special needs, to comply
29 with the request requirements under this section.

30
31 (C) The request shall be stamped by the government agency, indicating the date and
32 time of receipt and the name, rank, title and position of the receiving public officer or
33 employee with the corresponding signature, and a copy thereof furnished to the
34 requesting party. In case the request is submitted by electronic means, the government
35 agency shall provide for an equivalent means by which the requirements of this
36 paragraph shall be met. Each government agency shall establish a system to trace the
37 status of all requests for information received by it.

38 (D) The request may indicate the requesting party's preferred mode and means of

1 receiving the information requested, provided that the mode and means are reasonable.
2 taking into consideration equipment normally available to the concerned government
3 agency.

4
5 (E) A government agency may communicate the information requested in a form other
6 than the preferred means whenever the agency has no capability in communicating the
7 information *in the preferred format, or such preferred means would unreasonably*
8 *interfere with the effective operation of the agency or be detrimental to the preservation*
9 *of the record.*

10
11 (F) The government agency shall comply with such request as soon as practicable, and
12 in any case within fifteen (15) working days from the receipt thereof. The period may be
13 extended whenever the information requested requires a search of the government
14 agency's field or satellite offices, examination of voluminous records, the occurrence of
15 fortuitous events or other analogous cases.

16
17 (G) The government agency shall, in writing or through electronic means, notify the
18 person making the request of the extension, setting forth the reasons for such extension
19 and the date when the information shall be made available, which in no case shall result
20 in an extension of more than twenty (20) working days.

21
22 (H) Once a decision is made to grant the request, the person making the request shall
23 be notified of such and shall pay the required access and processing fees.

24
25 If the information is not held by the government agency to which the request was made,
26 it shall notify the requester that it does not hold the information, and indicate to the
27 requester which agency holds the record, if known. Whenever practicable, the agency
28 receiving the request may also cause the transfer of the request to the appropriate
29 agency that holds the information: *Provided, That the period to comply with the request*
30 *under this section shall begin to run only upon the receipt of the agency to which the*
31 *request is transferred.*

32
33 **SEC. 12. Access and Processing Fees.** – Government agencies may charge a
34 reasonable fee to reimburse the actual cost of reproduction, copying or transcription and
35 the communication of the information requested. An agency may waive the fees
36 whenever it is satisfied that the requester is an indigent, or that the cost of reproduction
37 is negligible, or that it is pursuant to a program for proactive disclosure.

1 **SEC. 13. Exemption From Compliance.** – The government agency is excused from
2 complying with a subsequent identical or substantially similar request from the same
3 requesting party where it has previously complied with a request for information unless
4 a reasonable interval has lapsed between compliance with the previous request and the
5 making of the current request: *Provided*, That the government agency complies with
6 Section 14 of this Act.

7
8 **SEC. 14. Notice of Denial.** – (A) If the government agency decides to deny the request,
9 in whole or in part, it shall, as soon as practicable, and in any case within fifteen (15)
10 working days from the receipt of the request, notify the person making the request of
11 such denial in writing or through electronic means. The notice shall clearly set forth the
12 ground or grounds for denial and the circumstances on which the denial is based, and
13 indicate available rights of reconsideration or appeal. Failure to notify the person making
14 the request of the denial, or of the extension, shall be deemed a denial of the request
15 for access to information.

16
17 **SEC. 15. Remedies in Cases of Denial.** – (A) In all government agencies other than
18 the judicial branch:

19
20 (1) Every denial of a request for access to information may be contested by a Request
21 for Administrative Reconsideration to the same responsible official who originally denied
22 the request or by an Administrative appeal to the Head of Agency, following the
23 procedure mentioned in Section 10 (a) (8) and Section 14 of this Act: *Provided*, That
24 the appeal must be filed within fifteen (15) calendar days from the receipt of the notice
25 of denial and must be decided within fifteen (15) calendar days from filing. Failure to
26 resolve the appeal within the aforementioned period shall constitute a denial of the
27 appeal: *Provided, Further*, That every Notice of Denial shall include check-box options
28 to be checked or marked by the requester for the Immediate Administrative
29 Reconsideration or Appeal to the head of the agency. If the requester, after indicating
30 his desired remedy, submits his Request for Administrative Reconsideration or Appeal
31 with the government official communicating the Notice of Denial to the requester, that
32 government official shall be responsible for immediately coursing the Request for
33 Administrative Reconsideration or Appeal to the appropriate official or head of the
34 agency: *Provided, Finally*, That the requester may, in addition to and together with his
35 Request for Reconsideration or Appeal, submit further arguments to strengthen his
36 request;

37
38 (2) Instead of appealing or after the denial of the appeal, the person denied access to

1 information may file a verified Complaint with the Office of the Ombudsman, praying that
2 the government agency concerned be directed to immediately afford access to the
3 information being requested. Such Complaint shall be resolved by the Office of the
4 Ombudsman within sixty (60) calendar days from filing, or earlier when time is of the
5 essence, taking into account such factors as the nature of the information requested,
6 context of the request, public interest and danger that the information requested will
7 become moot. The Office of the Ombudsman shall promulgate its special rules of
8 procedure for the immediate disposition of Complaints filed pursuant to this Section.
9 Unless restrained or enjoined, the decisions of the Office of the Ombudsman shall be
10 immediately executory, without prejudice to review in accordance with the Rules of
11 Court;

12
13 (3) Instead of filing a Complaint with the Office of the Ombudsman, whenever a request
14 for information is denied originally or on administrative appeal, the requesting party may
15 file a verified petition for mandamus in the proper court, alleging the facts with certainty
16 and praying that judgment be rendered ordering the respondent, immediately or at
17 some other time to be specified by the court, to disclose the information and to pay the
18 damages sustained by the requesting party by reason of the denial. The procedure for
19 such petition shall be summary in nature;

20
21 (4) In resolving a Complaint or Petition brought under the preceding paragraphs (2) and
22 (3), the Ombudsman or the court is empowered to receive the information subject of a
23 claim of exception under Section 7 herein and examine them *in camera* to determine
24 the sufficiency of the factual and legal basis of such claim, when such sufficiency cannot
25 be reasonably determined through evidence and circumstances apart from the
26 information.

27
28 (B) In the Judicial Branch – The Judiciary shall be governed by such remedies as
29 promulgated by the Supreme Court.

30
31 (C) The remedies under this section are without prejudice to any other administrative,
32 civil or criminal action covering the same act.

33
34 (D) The remedies available under this Act shall be exempt from the rules on non-
35 exhaustion of administrative remedies and the application of the provisions of Republic
36 Act No. 9285, otherwise known as the Alternative Dispute Resolution Act of 2004.

37
38 (E) In case the requesting party has limited or no financial capacity, the Public

1 Attorney's Office shall be mandated to provide legal assistance to the requester
2 availing of the remedies provided under this Act.

3
4 **SEC. 16. Keeping of Records.** – (A) Government agencies shall create and/or
5 maintain in appropriate formats, accurate and reasonably complete documentation or
6 records of their organization, policies, transactions, decisions, resolutions, enactments,
7 actions, procedures, operations, activities, communications and documents received or
8 filed with them and the data generated or collected. These shall include working files
9 such as drafts or notes, whenever these have been circulated within the agency for
10 official purpose such as for discussion, comment or approval or when these contain
11 unique information that can substantially contribute to a proper understanding of the
12 agency organization, policies, transactions, decisions, resolutions, enactments, actions,
13 procedures, operations, and activities;

14
15 (B) Government agencies shall identify specific and classes of official records in their
16 custody or control that have continuing historical, administrative, informational, legal,
17 evidentiary, or research value for preservation by such agencies or their legitimate
18 successors, or for transfer to the National Archives of the Philippines. In addition, the

19
20 National Archives of the Philippines shall likewise identify specific and classes of official
21 records that it shall require agencies to preserve and transfer to it.

22
23 (C) In addition to the specific and classes of official records identified for preservation
24 under letter (B) of this section, the following shall not be destroyed:

25
26 (1) Records pertaining to loans obtained or guaranteed by the government;

27 (2) Records of government contracts;

28 (3) The declaration under oath of the assets, liabilities and net worth of public
29 officers and employees, as required by law; and

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

32
33 (D) Government agencies shall prepare, following standards and period promulgated
34 pursuant to Republic Act No. 9470 or the National Archives of the Philippines Act of
35 2007, a records management program that includes the following:

36
37 (1) A records maintenance system for the creation, selection, classification,
38 indexing and filing of official records that facilitate the easy identification, retrieval

1 and communication of information to the public;

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

6 and

7 (3) A specifications of the roles and responsibilities of agency personnel in the
8 implementation of such system and schedule.

9
10 (E) In addition to its function as repository of all rules and regulations issued by
11 agencies as provided under Book VII, Chapter II of the Administrative Code of 1987, the
12 University of the Philippines Law Center shall, in coordination with the Office of the
13 President which has exclusive editorial and printing jurisdiction over the *Official Gazette*,
14 and with other relevant agencies, maintain a database, and publish the same in print in
15 the *Official Gazette* or in digital or online form, the following:

16
17 (1) All laws of the Philippines and their amendments, from the period of the
18 Philippine Commission to the present;

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

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

24 (4) Opinions of the Secretary of Justice.

25
26 **SEC. 17. 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
31 For purposes of compliance with Article 2 of the Civil Code of the Philippines,
32 publication of the following in the online version of the Official Gazette, with the
33 corresponding timestamps on the document, shall be considered as official publication.

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

37 (B) All executive and administrative orders and proclamations of general
38 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 sufficient
3 importance to be so published;

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

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
10 of the Official Gazette or in any newspaper of general circulation for purposes of
11 compliance with the publication requirement.
12

13 **SEC. 18. Administrative Liability.** – The acts enumerated in this Section shall be
14 tantamount to grave administrative offenses and shall constitute grounds for
15 administrative and disciplinary sanction against any public official or employee who
16 willfully and knowingly commits the following:
17

18 (a) Refusal to promptly forward the request under Section 11 of this Act to the public
19 officer within the same office or agency responsible for officially acting on the request
20 when such is the direct cause of the failure to disclose the information within the periods
21 required by this Act;

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

23 (c) Refusal to comply with the decision of his immediate supervisor, the Ombudsman, or
24 of any court ordering the release of information;

25 (d) Approval of policies, rules and regulations clearly contrary to the provisions of this
26 Act, and which policies, rules and regulations are the direct cause of the denial of a
27 request for information.
28

29 **SEC. 19. Criminal Liability.** – (A) Any public official or employee who falsely denies or
30 conceals the existence of information which is a proper subject for disclosure under this
31 Act shall be liable for the crime of removal, concealment or destruction of documents as
32 defined under Article 226 of the Revised Penal Code.

33 (B) Any public official or employee who destroys, or causes to be destroyed,
34 information and/or documents being requested under this Act, for the purpose of
35 frustrating the requesting party's access thereto, shall be liable for the crime of removal,
36 concealment or destruction of documents as defined under Article 226 of the Revised
37 Penal Code.

38 (C) Any individual who knowingly directed, induced or caused the commission of the

1 foregoing acts shall be liable as principal by inducement in the prosecution of public
2 officials or employees under this section.

3 (D) The penalty of *arresto mayor* shall be imposed upon any public officer or employee
4 responsible for officially acting on the request, who shall claim an exception under
5 Section 7 of this Act, or under the Constitution, when such claim is manifestly devoid of
6 factual basis.

7
8 **SEC. 20. No abuse in the exercise of rights and in the performance of duties**
9 **under this Act.** - 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 information
14 kept or obtained under this Act with due care, to the end that inaccuracies and
15 distortions are avoided.

16
17 Any public official or employee, or citizen who, in the performance of duties or exercise
18 of rights under this Act, willfully or negligently causes loss, damage or injury to another,
19 in a manner that is contrary to law, morals, good customs or public policy, shall
20 compensate the latter for the damage incurred. This is without prejudice to other
21 remedies available to the aggrieved party under any other law for the same acts

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

26
27 **SEC. 22. Act Not a Bar to Claim of Right to Information Under the Constitution.**
28 No provision of this Act shall be interpreted as a bar to any claim of denial of the right to
29 information under Article III, Section 7 of the 1987 Constitution.

30
31 **SEC. 23. Appropriations.** - The amount necessary to carry out the provisions of this
32 Act shall be charged against the agencies' current budget and shall thereafter be
33 included in the annual General Appropriations Act.

34
35 **SEC. 24. Separability Clause.** - If any section or part of this Act is held
36 unconstitutional or invalid, the other sections or provisions not otherwise affected shall
37 remain in full force and effect.

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

9
10 **SEC. 26. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in
11 at least two (2) national newspapers of general circulation.

12
13
14 Approved,