



HOUSE OF REPRESENTATIVES

H. No. 5868'

BY REPRESENTATIVES UMALI (R.), ARROYO (D.), MACAPAGAL-ARROYO (G.), GARCIA (A.), APACIBLE, DUAVIT, BIRON, DEFENSOR, ALVAREZ (A.), TREÑAS, CASIÑO, VILLARICA, MANDANAS, FERNANDEZ, GARAY, TEODORO, DEL ROSARIO (A.G.), SACDALAN, OSMEÑA, JOSON, RODRIGUEZ (I.), LACSON-NOEL, YU, FERRER (J.), SAHIDULLA, LAGDAMEO (A.), BONOAN-DAVID, MELLANA, SAKALURAN, QUISUMBING, UNABIA, BATOCABE, COLMENARES, HARESCO, VILLAR, PANCHO, ENVERGA, COJUANGCO (E.), CAJAYON, TUGNA, TY, ROMUALDEZ, GONZALES (A.), PANOTES AND BAGASINA, PER COMMITTEE REPORT NO. 1875

AN ACT UPHOLDING THE CONSTITUTIONAL RIGHT OF THE PEOPLE TO INFORMATION ON MATTERS OF PUBLIC CONCERN ON FOOD INCLUDED IN THE LIST OF BASIC NECESSITIES OR PRIME COMMODITIES TO GUARANTEE THE RIGHT OF THE PEOPLE TO AFFORDABLE FOOD AND ADEQUATE FOOD SUPPLY

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

1 SECTION 1. *Short Title.* — This Act shall be known as the
2 “Affordable Food Transparency Act”.

3 SEC. 2. *Declaration of Policy.* — The State recognizes the
4 fundamental right of the people to affordable food and adequate food supply.

1 The State, therefore, acknowledges its obligation to the people to ensure
2 adequate supply of food included in the list of basic necessities or prime
3 commodities, as well as to ensure transparency in all its transactions and to
4 prevent any and all forms of collusion and cartel that would restrict the
5 people's access to affordable food and adequate food supply. In order to
6 reinforce the right of the people to affordable food and adequate food supply,
7 the State shall adopt and implement a policy of full public disclosure of all
8 government transactions involving food included in the list of basic necessities
9 or prime commodities, consistent with the constitutional right of the people to
10 information on all matters of public concern. To guarantee the people's
11 fundamental human right to affordable food and adequate food supply, the
12 State shall afford to all citizens, nongovernment organizations, civil society
13 groups and other private entities access to official records, and to documents
14 and papers pertaining to official acts, transactions or decisions, as well as to
15 government research data used as basis for policy development, except for
16 such information which may jeopardize the right against self-incrimination of
17 individuals and matters affecting national security, especially those information
18 dealing with foreign diplomatic relations.

19 SEC. 3. *Definition of Terms.* – As used in this Act:

20 (a) *Basic necessities* include rice, corn, bread; fresh, dried and canned
21 fish and other marine products; fresh pork, beef and poultry meat; fresh eggs;
22 fresh and processed milk; fresh vegetables; root crops; coffee; sugar; cooking
23 oil; salt; laundry soap and detergents; firewood; charcoal; candles; and drugs
24 classified as essential by the Department of Health (DOH), as defined under
25 Republic Act No. 7581, otherwise known as "The Price Act".

26 (b) *Government body* refers to any branch, agency or instrumentality of
27 the Executive Department, specifically, but not limited to, the Department of
28 Agriculture (DA) and the Department of Trade and Industry (DTI), the

1 legislative, judicial or constitutional body of the government of the Republic
2 of the Philippines, as well as the local government units (LGUs), the Armed
3 Forces of the Philippines (AFP) and the Philippine National Police (PNP),
4 government financial institutions (GFIs) and government-owned and
5 -controlled corporations (GOCCs), and all such other entities where the
6 government has substantial interest therein.

7 (c) *Information* refers to all documents, papers, letters, minutes and
8 transcripts of official meetings, maps, books, photographs, films, sound and
9 video recordings, magnetic or other tapes, electronic data processing records,
10 computer-stored data, electronic mail messages, or any other like or similar
11 data or material recorded, stored or archived in whatever form or format,
12 which are made, received or kept in or under the control and custody of any
13 government body, pursuant to law, executive order, rules and regulations,
14 ordinance or any other issuance in connection with the performance or
15 transaction of its official business.

16 (d) *Prime commodities* include fresh fruits; flour; dried, processed and
17 canned pork; beef and poultry meat; dairy products not falling under basic
18 necessities; noodles; onions; garlic; vinegar; patis; soy sauce; toilet soap;
19 fertilizer; pesticides; herbicides; poultry, swine and cattle; paper; school
20 supplies; nipa shingles; sawali; cement; clinker; galvanized iron (GI) sheets;
21 hollow blocks; plywood; plyboard; construction nails; batteries; electrical
22 supplies; light bulbs; steel wire; and all drugs not classified as essential drugs
23 by the DOH, as defined under Republic Act No. 7581, otherwise known as
24 "The Price Act".

25 (e) *Requesting person* refers to a person, whether natural or juridical,
26 who makes a request to obtain, have a copy of, or have access to information
27 from any government body.

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

9 SEC. 4. *Coverage and Limitations.* – All information, as herein
10 defined, pertaining to food included in the list of basic necessities or prime
11 commodities, which are in the custody of or under the control of a government
12 body shall be made accessible and available for public scrutiny, copying and
13 reproduction, except when:

14 (a) The information pertains to personal information on a third party,
15 whether a natural or juridical person, but only when its revelation would
16 constitute a violation of the individual's right against self-incrimination and
17 confidentiality of information including, but not limited to, records or
18 information covered by attorney-client or doctor-patient relationship;

19 (b) The information has been specifically authorized to be kept secret
20 or considered classified in the interest of national security by the President of
21 the Republic of the Philippines through an executive order duly published in
22 the *Official Gazette* or in at least two (2) newspapers of general circulation,
23 subject to the following provisions:

24 (1) The Supreme Court may, upon petition for *certiorari* by any
25 citizen, inquire into the sufficiency of the factual basis for the determination of
26 the President of the Republic of the Philippines;

1 (2) The information shall be reviewed every five (5) years by the head
2 of each government body for purposes of declassification and making it
3 available to the public; and

4 (3) The information shall finally be deemed declassified and open to
5 the public after a period of fifteen (15) years from the date of first publication
6 of the said Executive Order in the *Official Gazette* or in a newspaper of general
7 circulation.

8 (c) The information relates to the detection and investigation of crime
9 maintained by law enforcement agencies for criminal law enforcement
10 including those maintained by any individual or compiled in the course of a
11 criminal investigation by any law enforcement agency: *Provided*, That the
12 disclosure of the public record or information:

13 (1) Could reasonably be expected to interfere with the prevention,
14 detection, suppression or investigation of any criminal activity or with law
15 enforcement operations;

16 (2) Would deprive a person of a right to a fair trial or an impartial
17 adjudication;

18 (3) Could reasonably be expected to constitute an unwarranted invasion
19 of personal privacy;

20 (4) Could reasonably be expected to disclose the identity of a
21 confidential source, including a foreign agency or authority, or any private
22 institution which furnished information on a confidential basis, or the
23 information was furnished by a confidential source;

24 (5) Would disclose techniques and procedures for law enforcement
25 investigations or prosecutions, or would disclose guidelines for law
26 enforcement investigations or prosecutions; or

1 (6) Could reasonably be expected to endanger the life or physical
2 safety of any individual, harm the security of any property or system including,
3 but not limited to, a building, vehicle, computer or communications system:

4 *Provided, however,* That records or information relating to the
5 administration, management and direction of a law enforcement agency shall
6 be made public.

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

19 (e) The information pertains to trade secrets and commercial or
20 financial information obtained from a person, firm or corporation which is of a
21 privileged or confidential nature; or

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

26 In cases where access is requested to a portion of a record or
27 information that is exempt from disclosure pursuant to this Act, the public shall
28 have the right of access to the remainder of the record: *Provided,* That the

1 exempt portion of the record may be reasonably separated, severed, deleted or
2 concealed from the record.

3 Nothing in this Act shall, however:

4 (1) Authorize the withholding of information from, or limit the
5 availability of records to Congress or any of its committees;

6 (2) Affect the power of any court, tribunal, investigative body, or any
7 government body exercising quasi-judicial functions to compel a witness to
8 testify or to compel the production of documents;

9 (3) Limit the information otherwise available by law to a party to
10 litigation including a civil, criminal or administrative proceeding;

11 (4) Prohibit the transfer, storage or destruction of any record pursuant
12 to law, decree, order, ordinance or rules and regulations;

13 (5) Prevent access to records maintained in a public office for the
14 purpose of providing the public access to information; or

15 (6) Restrict disclosure of information for the purpose of an
16 investigation or prosecution of a criminal case or a case of graft and
17 corruption.

18 SEC. 5. *Procedure for Access.* – Any person who seeks to obtain,
19 have a copy of, or have access to any information shall file a request in writing,
20 as much as practicable, to the government body, reasonably describing the
21 information being sought and stating correct and current contact details.

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

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

1 (a) The requesting person failed to give enough details about the
2 information or record sought to be obtained;

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

7 (c) The request requires search and collation of records from its field
8 offices;

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

11 (e) There are fortuitous events or other events from *force majeure*, or
12 other analogous cases.

13 SEC. 6. *Payment of Reasonable Fees.* – Copies or reproductions of
14 information, whether in print or electronic media, may be obtained by the
15 requesting person whose request has been approved upon payment of a
16 reasonable fee which shall not exceed the actual cost of reproduction, plus a
17 reasonable margin not exceeding ten percent (10%): *Provided*, That proceeds
18 from the reproduction fees charged shall be used exclusively for the purchase
19 and maintenance of equipment and supplies required to produce copies or
20 reproduction of the records.

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

24 SEC. 7. *Transfer of Request.* – If a government body to which the
25 request was filed determines that the information being sought is not in its
26 custody or control, it shall, within two (2) days from receipt of the request,
27 notify the requesting person of the same, through writing or other contact
28 channels that the requesting person has provided, and shall then either:

1 (a) Transmit the request to the government body which has the
2 possession or custody of the information being sought; or

3 (b) Provide the requesting person with a referral letter, signed by its
4 head and addressed to the head of the government body which has the
5 possession or custody of the information being sought.

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

8 SEC. 8. *Denial of Request.* – If the government body decides to deny
9 the request, in whole or in part, it shall, within two (2) working days from the
10 receipt of the request, notify the requesting person of the denial in writing,
11 signed by the head of the government body, and the specific grounds for the
12 denial and the corresponding legal basis, as allowed in Section 4 hereof.

13 SEC. 9. *Remedies to Compel Disclosure.* – Every denial of any
14 request for access to information may be appealed before the Office of the
15 Ombudsman by filing, within fifteen (15) days from receipt of a letter of
16 denial, a prayer for the disclosure of the information being sought.

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

24 Nothing in this section shall, however, prejudice recourse to any other
25 available administrative, civil or criminal action.

26 SEC. 10. *Publication of Importation Permits.* – In the spirit of
27 transparency and accountability, the DA shall cause the publication of the

1 following information on importation permits that it has granted for all basic
2 necessities or prime commodities, especially rice, corn and sugar:

3 (a) Name and address of importer, either as a natural or juridical entity;

4 (b) Name and address of supplier from whom importation is sourced;

5 (c) Country of origin of each shipment of imported basic necessities or
6 prime commodities;

7 (d) Date of contract of import;

8 (e) Date of arrival of each shipment of imported basic necessities or
9 prime commodities;

10 (f) Schedule, cargo or vessel, and maximum tonnage per shipment;

11 (g) Contracted and actual volume of each shipment of imported basic
12 necessities or prime commodities;

13 (h) Specifications of imported basic necessity or prime commodity per
14 shipment;

15 (i) Contracted price of imported basic necessity or prime commodity
16 per shipment;

17 (j) Value or cost of import per volume and for each source;

18 (k) Mode of purchase of imported basic necessity or prime commodity
19 per shipment;

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

21 (m) Such other information that may be necessary to ensure a complete
22 and proper inventory of imported basic necessities or prime commodities.

23 The DA shall also prepare, keep and maintain records and a database
24 containing the foregoing information which shall be made readily available to
25 the public.

26 *SEC. 11. Mandatory Disclosure of Food Information.* – Each
27 government body that possesses any significant information that affects food
28 supply shall readily disseminate the same to the public and regularly update

1 such information. The means of disclosure and dissemination of the
2 information shall include but not be limited to:

3 (a) Manuals, pamphlets, brochures, bulletins, posters, announcements,
4 or any other printed documents, for distribution or for posting by the
5 government body concerned in conspicuous places in its central and field
6 offices; and

7 (b) Electronically uploading of such information in its website.

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

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

24 Any official or employee of the government who shall fail to respond to
25 a request for information due to negligence, or fail to meet the time limits for
26 response set forth in this Act, without justifiable reasons for such, shall be
27 punished with an imprisonment of not less than six (6) months but not more
28 than one (1) year or a fine of not less than Ten thousand pesos (P10,000.00)

1 but not more than Twenty thousand pesos (P20,000.00), or both imprisonment
2 and fine, including all the accessory penalties provided by law, at the
3 discretion of the court.

4 Any official or employee of a government body who shall deliberately
5 and knowingly refuse, or because of negligence, fail to update any information
6 the said office is required to disclose under Sections 11 and 12 of this Act,
7 shall be punished administratively with suspension from service, without
8 pay, for at least six (6) months but not more than one (1) year. A subsequent
9 offense shall cause the dismissal of the offending party from the service.

10 SEC. 14. *Implementing Guidelines.* – Each government body
11 concerned with providing information on food as specified in this Act shall,
12 within sixty (60) days from the effectivity of this Act, promulgate guidelines
13 specifying the office, the employees from whom, and the methods and process
14 whereby the public may request access to, or obtain information which are kept
15 in or held under its custody or control.

16 SEC. 15. *Reports.* – On or before March 1 of each calendar year,
17 each government body concerned with providing information on food as
18 specified in this Act shall submit a report covering the preceding year to the
19 Speaker of the House of Representatives and the President of the Senate for
20 referral to the Committee on Agriculture and the Committee on Trade. The
21 report shall include:

22 (a) A copy of the implementing guidelines and rules crafted by a
23 government body in the implementation of this Act;

24 (b) A copy of the reproduction fee schedule under Section 6 of this
25 Act, the total proceeds collected from the fees and the use of the proceeds by
26 the government body;

1 (c) The number of determinations made by the government body to
2 refuse the requests for information made to the government body under Section
3 9 hereof and the reasons for such determination;

4 (d) The names and titles or positions of officials responsible for the
5 refusal of requests under this Act, and the number of instances of participation
6 of each;

7 (e) The number of refused requests wherein the requesting person
8 sought remedies before the Office of the Ombudsman or before the regular
9 courts, and the names and titles or positions of officials in these cases;

10 (f) A copy of the information disclosed by the government body
11 pursuant to Section 11 of this Act, including a description of the documents,
12 whether print or electronic, used in the dissemination of the disclosed
13 information;

14 (g) A summary of other initiatives made by the government body,
15 whether or not mandated by this Act or any other law, that sought to enhance
16 and enforce the implementation of this Act; and

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

19 The Office of the Ombudsman shall submit an annual report on or
20 before March 1 of each calendar year, listing the number of cases filed before
21 it under Section 9 of this Act and the disposition of each case. The Solicitor
22 General shall likewise submit an annual report on or before March 1 of each
23 calendar year, listing the number of cases filed before the regular courts under
24 Section 9 of this Act, the disposition of each case, the names and positions or
25 titles of the officials penalized and the penalties imposed.

26 SEC. 16. *Oversight Committee.* – There shall be a Congressional
27 Oversight Committee consisting of five (5) members each from the Senate and
28 the House of Representatives, which shall be composed of the Chairpersons of

1 the Committees on Agriculture, Trade and Industry, Justice and Human Rights
2 of both the Senate and the House of Representatives, which shall meet
3 bi-annually to oversee the implementation of this Act. The Congressional
4 Oversight Committee shall be jointly chaired by the Chairpersons of the
5 Committee on Agriculture and the Committee on Trade and Industry of the
6 Senate and the House of Representatives. The Chairpersons of the Committee
7 on Justice and the Committee on Human Rights of the Senate and the House of
8 Representatives shall act as co-vice chairpersons of the oversight committee.

9 SEC. 17. *Separability Clause.* – If any provision or part of this Act is
10 declared invalid or unconstitutional, the remaining parts or provisions not
11 affected thereby shall remain in full force and effect.

12 SEC. 18. *Repealing Clause.* – All laws, decrees, orders, rules and
13 regulations or other issuances or parts thereof inconsistent with the provisions
14 of this Act are hereby repealed or modified accordingly.

15 SEC. 19. *Effectivity Clause.* – This Act shall take effect fifteen (15)
16 days after its publication in the *Official Gazette* or in two (2) national
17 newspapers of general circulation.

Approved,

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