

The Karnataka Prohibition Of Charging Exorbitant Interest Act, 2004

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Act 14 of 2004

- Published in Gazette 14 on 1 January 1980
- Assented to on 1 January 1980
- Commenced on 1 January 1980
- [This is the version of this document as it was from 1 January 2004 to None.]
- [Note: The original publication document is not available and this content could not be verified.]

Karnataka Prohibition of Charging Exorbitant Interest Act, 2004(Karnataka Act No. 14 of 2004)Statement of objects and Reasons. - It is considered necessary to prohibit the charging of exorbitant interest by any person, in order to obviate the difficulties experienced by the public particularly farmers who are falling prey to the people charging exorbitant interest on the loans. Therefore, it has been decided to prohibit lending money at such an exorbitant interest and to provide for stringent punishment thereof.The Bill among other things provides for the following:-(i) prohibition of charging exorbitant interest by a money lender;(ii) penalty for charging exorbitant interest and for molesting or abetting molestation of any debtor for recovery of loan;(iii) provisions for filing petition to a court by a debtor to seek order recording satisfaction of loan and interest;(iv) voluntary disclosure by a person charging exorbitant interest by filing a petition to the court disclosing his intention to charge only the rate fixed by the Government under section 28 of the Karnataka Money Lenders Act, 1961;(v) adjustment of interest;The farmers in the State are in great difficulty and cases of their suicide on the ground of indebtedness are being reported daily. It is mainly due to severe draught prevailing in the State for the third successive year.Since the matter was urgent and as both the Houses of the State Legislature are not in session, the Karnataka Prohibition of Charging Exorbitant Interest Ordinance, 2003 (Karnataka Ordinance 6 of 2003) was promulgated to achieve the above object.This Bill Seeks to replace the said ordinance.Hence the Bill [L.A. BILL No. 14 OF 2004](Entry 30 of List II of the Seventh Schedule to the Constitution of India)(First published in the Karnataka Gazette Extra-ordinary on the Sixth day of March, 2004)An Act to prohibit the charging of exorbitant interest by any person and matters incidental thereto.Whereas, in order to obviate the difficulties experienced by the public at large who are falling prey to persons charging exorbitant interest, it is considered necessary to prohibit lending money for such exorbitant interest and to provide for stringent punishment thereof and for the purposes hereinafter appearing;Be it enacted by the Karnataka State Legislature in the Fifty fifth

year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Karnataka Prohibition of Charging Exorbitant Interest Act, 2004. (2) It extends to the whole of the State of Karnataka. (3) It shall be deemed to have come into force on the fifth day of September, 2003.

2. Definitions.

(1) In this Act, unless the context otherwise requires, - (a) "debtor" means a person who receives loan for exorbitant interest; (b) "exorbitant interest" means and includes charging of interest on hourly basis, daily basis, installment basis, monthly basis or in any other form which works out to be an interest at rate more than that fixed by the State Government under section 28 of the Karnataka Money Lenders Act, 1961; (c) "Karnataka Money Lenders Act, 1961" means the Karnataka Money Lenders Act, 1961 (Karnataka Act 12 of 1961); (d) "loan" means an advance of money given to a debtor for exorbitant interest. (2) Words and expressions used but not defined in this Act shall have the meanings assigned to them in the Karnataka Money Lenders Act, 1961.

3. Prohibition of charging exorbitant interest.

- No person shall charge exorbitant interest on any loan advanced by him.

4. Penalty.

- Notwithstanding anything contained in the Karnataka Money-Lenders Act, 1961, whoever contravenes the provision of section 3 or molests or abets the molestation of any debtor for recovery of any loan shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to thirty thousand rupees.

5. Deposit of money and presentation of petition to court and the procedure thereof.

(1) A debtor may deposit the money due in respect of a loan received by him from any person together with interest at the rate fixed by the State Government under section 28 of the Karnataka Money Lenders Act, 1961 into the Court having jurisdiction, along with a petition to record that the amount deposited is in full or part, satisfaction of the loan including the interest therefor, as the case may be. (2) The Court shall, on receipt of a petition under sub-section (1), refer a copy of the petition to the person mentioned in the petition, directing him to give his replies within a period of fifteen days as may be granted by the Court. The Court may, after due inquiry and after considering the versions of both the parties, pass orders recording the satisfaction of the loan and interest therefor in full or in part, as the case may be.

6. Restoration of possession of property.

- The Court may, on filing a petition by the debtor, order the restoration of possession of property whether movable or immovable, if any, forcibly taken by any person towards repayment of the loan advanced or interest therefor.

7. Voluntary disclosure.

- Any person who charges exorbitant interest may, within one month from the date of publication of this Act, file a petition before the Court disclosing his intention to charge only the rate fixed by the State Government under section 28 of the Karnataka Money Lenders Act, 1961, on the loan advanced by him and on such disclosure the interest in respect of such loan shall be as fixed by the State Government under Section 28 of the Karnataka Money Lenders Act, 1961, and no prosecution for the offenses under this Act shall be instituted in respect of such loan.

8. Adjustment of Interest.

- The Court may, on a petition filed by the debtor for settlement of loan including the interest therefor, pass an order for the adjustment of the interest, if any, paid by the debtor, over and above the rate of interest fixed by the State Government under section 28 of the Karnataka Money Lenders Act, 1961, towards the loan.

9. Abetment of suicide.

- Where a debtor or any member of his family commits suicide and if it is shown that immediately prior to such suicide the debtor or any member of his family was subjected to molestation by any person, the person who has advanced loan shall, unless the contrary is proved, be deemed to have abetted the commission of such suicide, Explanation: - For the purpose of this section, "Member of family" means the spouse, unmarried daughter or unmarried son.

10. Court fees.

- Notwithstanding anything contained in any other law for the time being in force, the Court fee payable in respect of a petition under this Act shall be rupees fifty.

11. Act not to be in derogation to other laws.

- The provisions of sub-section (3) of section 28 and sections 38 to 40 of the Karnataka Money Lenders Act, 1961 shall not apply in respect of offences under this Act. The provisions of this Act shall be in addition to and not in derogation to the provisions of any other law for the time being in force.

12. Application of provisions of the Karnataka Money Lenders Act, 1961.

- Subject to the provisions of this Act, the provisions of the Karnataka Money Lenders Act, 1961, in so far as they are applicable to money lenders shall mutatis mutandis apply to a person referred to in section 3 of this Act. Explanation: - Where an act of a person constitutes an offence under this Act and under the Karnataka Money Lenders Act, 1961, prosecution shall be launched under this Act.

13. Deferment of repayment of loan.

- Notwithstanding anything contained in the Karnataka Money Lenders Act, 1961, no action to recover a loan against a debtor who is a farmer or agricultural labourer shall be taken for a period of one year from the date of commencement of this Act.

14. Repeal and Savings.

(1)The Karnataka Prohibition of Charging Exorbitant Interest Ordinance, 2003 (Karnataka Ordinance No.6 of 2003) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.