

Thirteenth Kerala Legislative Assembly
Bill No. 114

**THE KERALA PROHIBITION OF CHARGING
EXORBITANT INTEREST BILL, 2012**

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**THE KERALA PROHIBITION OF CHARGING EXORBITANT
INTEREST BILL, 2012**

A

BILL

to prohibit lending of money for exorbitant interest and to provide for stringent punishment for charging exorbitant interest in the money lending business in the State of Kerala and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to prohibit lending of money for exorbitant interest and to provide stringent punishment for charging exorbitant interest in the money lending business in the State of Kerala and for matters connected therewith or incidental thereto;

BE it enacted in the Sixty-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Prohibition of Charging Exorbitant Interest Act, 2012.

(2) It shall come into force at once.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,—

(a) “daily vatti” means interest on daily basis which will work out to an interest rate more than that specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) ;

(b) “debtor” means a person who receives loan for exorbitant interest ;

(c) “exorbitant interest” includes daily vatti, hourly vatti, kandhu vatti, meter vatti and thandal ;

(d) “hourly vatti” means interest on hourly basis which will work out to an interest rate more than that specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) ;

(e) “kandhu vatti” means an interest which will work out to an interest rate more than that specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) ;

(f) “loan” means an advance of money for daily vatti, hourly vatti, kandhu vatti, meter vatti or thandal ;

(g) “meter vatti” means an interest which will work out to an interest rate more than that specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) for every day on the loan amount not paid within the stipulated time ;

(h) “thandal” means interest which will work out to an interest rate more than that specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) which is to be collected daily along with the part of the loan amount.

(2) Words and expressions used but not defined in this Act and defined in the Kerala Money-Lenders Act, 1958 (35 of 1958) shall have the meanings respectively assigned to them in that Act.

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 Kerala Money-Lenders Act, 1958 (35 of 1958), whoever contravenes the provisions of section 3 or molests or abets the molestation of any debtor for recovery of any loan shall, on conviction, be punished with imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees.

5. *Deposit of money and presentation of petition before the Court and the procedure thereof.*—(1) A debtor may deposit the money due in respect of loan received by him from any person together with interest at the rate specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) into the Court, having jurisdiction, along with a petition to record that the amount deposited is in full or in part satisfaction of the loan including the interest thereon, 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 version of the case within a period of fifteen days or within such other time as may be granted by the Court. The Court may, after due inquiry and after considering the versions of the parties, pass orders recording the satisfaction of the loan and interest thereon 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, taken possession by any person towards repayment of the loan advanced to him or interest thereon.

7. *Voluntary disclosure.*—Any person who charges exorbitant interest may, within one month from the date of coming into force of this Act, file a petition before the Court disclosing his intention to charge only the rate specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) on the loan advanced by him and on such disclosure, the interest in respect of such loan shall be as specified under sub-section (1) of section 7 of the said Act and no prosecution for the offences under this Act shall be instituted in respect of such loan.

8. *Adjustment of interest.*—The Court may, on petition filed by the debtor for settlement of loan, including the interest thereon, pass an order for the adjustment of the interest, if any, paid by the debtor, over and above the rate of interest specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958), towards the loan.

9. *Abetment of suicide.*—Where a debtor or any member of his family commits suicide and it is proved 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 the 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 husband or wife, 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 one hundred rupees.

11. *Act not to be in derogation of any other laws.*—The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

12. *Application of the provisions of the Kerala Money-Lenders Act, 1958 (35 of 1958).*—Subject to the provisions of this Act, the provisions of the Kerala Money-Lenders Act, 1958 (35 of 1958), 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 Kerala Money-Lenders Act, 1958 (35 of 1958), prosecution shall be launched under this Act.

STATEMENT OF OBJECTS AND REASONS

The Kerala Money-Lenders Act, 1958 (35 of 1958) is in force to provide for the regulation and control of the business of money-lending in the State. As per the provisions in the said Act, money lending licence is granted on condition that interest on the loans granted by the money-lenders shall not be in excess of two per cent of the maximum rate of interest charged by the commercial banks on the loans granted by them and that the interest on deposits shall be given only in accordance with the provisions of the Reserve Bank of India Act, 1934 (Central Act 2 of 1934) at such rates of interest being fixed by the Reserve Bank of India. A company incorporated under the Companies Act, 1956 (Central Act 1 of 1956) is not required to obtain a licence under the Kerala Money-Lenders Act, 1958 (35 of 1958).

2. Carrying on the business of money-lending without licence and violation of the conditions of licence is an offence punishable under the Kerala Money-Lenders Act, 1958 (35 of 1958). Moreover, there is no effective mechanism to control charging of exorbitant interest in the business by the money-lenders in Kerala. Therefore, in order to release the general public from the difficulties being experienced by them by falling prey to any person charging exorbitant interest in the names like daily vatti, hourly vatti, kandhu vatti, meter vatti, thandal, the Government consider it necessary to enact a new legislation, in the public interest, to prohibit lending money for such exorbitant interest and to provide stringent punishment thereof.

3. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

K. M. MANI.