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West Bengal Act XXXIV of 1973¹

THE WEST BENGAL AGRICULTURAL CREDIT OPERATIONS ACT, 1973.

[8th August, 1973.]

An Act to make provisions for facilitating agricultural development through credit agencies.

WHEREAS it is expedient to make provisions for facilitating agricultural development through credit agencies and for matters connected therewith;

It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Agricultural Credit Operations Act, 1973.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of West Bengal.

(3) This section shall come into force at once and the remaining sections shall come into force on such date or dates and in such area or areas as the State Government may, by notification in the *Official Gazette*, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "agriculture" or "agricultural purpose" includes making any land fit for cultivation, cultivation of land, improvement of land, development of the sources of irrigation, raising and harvesting of crops, pisciculture, sericulture, horticulture, forestry, animal husbandry, dairy farming, seed farming, piggery, poultry farming and also includes storage, transport and marketing of agricultural produce, the acquisition of machineries and implements for agricultural purposes and such other purposes as the State Government may, by notification in the *Official Gazette*, specify;

(b) "agriculturist" means a person who holds land for any agricultural purpose or who is engaged in agriculture and includes a *bargadar*;

(c) "co-operative society" means a co-operative society registered under the Bengal Co-operative Societies Act, 1940, and includes a co-operative land mortgage bank;

(d) "credit agency" means—

(i) a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IVA of the 27th March, 1973, page 858(d); for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on 5th April, 1973.

*The West Bengal Agricultural Credit Operations
Act, 1973.*

[West Ben. Act

(Section 3.)

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| (ii) the State Bank of India constituted under the State Bank of India Act, 1955; | 23 of 1955. |
| (iii) 'a Subsidiary Bank' as defined in the State Bank of India (Subsidiary Banks) Act, 1959; | 38 of 1959. |
| (iv) 'a corresponding new bank' as defined in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; and | 5 of 1970. |
| (v) any other financial institution notified by the State Government as a credit agency for the purposes of this Act; | |
- (e) "crop loan" means a loan advanced to an agriculturist for the purpose of financing seasonal agricultural operation or the marketing of crop and is recoverable within fifteen months from the date of advancement of such loan;
- (f) "financial assistance" means assistance granted by a credit agency in favour of an agriculturist by way of loan, advance, guarantee or otherwise for agricultural purposes;
- (g) "land"—
- (i) includes the crops standing thereon, and
 - (ii) in the case of a *bargadar* means his share of produce on such land;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "term loan" means a loan advanced to an agriculturist for meeting outlay relating to the replacement or maintenance of wasting assets including machineries or for capital investment designed to increase the crop output and is repayable within any period exceeding fifteen months but not exceeding twenty years.

Removal of
restrictions
on
alienation.

3. (1) Notwithstanding anything contained in any other law for the time being in force or in any custom or usage having the force of law, it shall be lawful for an agriculturist to alienate his land and execute a charge or mortgage on such land in favour of a credit agency, as security for the financial assistance given to him by such credit agency.

(2) Notwithstanding anything contained in the Bengal Co-operative Societies Act, 1940, no mortgage or charge executed by an agriculturist in favour of a co-operative society in respect of a loan advanced to him by such co-operative society shall have priority over an earlier mortgage or charge of the kind referred to in sub-section (1).

Ben. Act.
XXI of
1940.

XXXIV of 1973.]

(Sections 4-6.)

4. Notwithstanding anything contained in any other law for the time being in force or in any custom or usage having the force of law, it shall be lawful for an agriculturist to create a charge on the movable property owned by him or on the crops raised by him, standing or otherwise or other produce from land cultivated by him, to the extent of his interest therein, in favour of a credit agency notwithstanding that he may not be the owner of the land on and from which the crop is raised.

Charge on crop and other movable property in favour of a credit agency.

5. (1) Notwithstanding anything contained in any other law for the time being in force, where different mortgages or charges have been executed by an agriculturist in respect of the same land both in favour of a credit agency and in favour of any person then the mortgage or charge executed in favour of a credit agency shall have priority over the mortgage or charge in favour of such person irrespective of the fact whether the mortgage or charge in favour of the credit agency was executed before or after the date of the mortgage or charge in favour of such person.

Priority of mortgages and charges.

Explanation.—In this sub-section the word "person" shall not include the State Government or any co-operative society.

(2) Where in respect of the same land different mortgages or charges have been executed by an agriculturist in favour of,—

- (i) the State Government,
- (ii) a co-operative society, and
- (iii) one or more credit agencies,

such mortgages or charges shall rank for priority in accordance with the respective dates of their execution.

(3) Notwithstanding anything contained in any other law for the time being in force, where different mortgages or charges have been executed by an agriculturist in respect of the same land for obtaining crop loan from one credit agency and a subsequent term loan from another credit agency then the mortgage or charge in relation to the subsequent term loan shall have priority over the mortgage or charge in relation to the crop loan provided the mortgage or charge in relation to such term loan was executed with the knowledge and consent of the credit agency providing the crop loan.

6. (1) Notwithstanding anything contained in any other law for the time being in force, an agriculturist who seeks to obtain financial assistance from a credit agency for carrying out any agricultural purpose shall, by a declaration submitted in such form and in such manner as may be prescribed, mortgage or charge the land owned by him as security for such financial assistance.

Mortgage and charge on land in favour of a credit agency by declaration.

(Sections 7-10.)

2. (2) Notwithstanding anything contained in the Registration Act, 1908, a mortgage or charge executed by an agriculturist through the declaration made under sub-section (1) shall be deemed to have been duly registered in accordance with the provisions of the said Act with effect from the date on which such mortgage or charge was executed provided that the credit agency shall forward, within such time and in such manner as may be prescribed, a copy of the declaration whereby the mortgage or charge was executed, to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged or charged is situate and the Registering Officer shall file the said copy in his Book No. 1 prescribed under section 51 of the said Act. 16 of 1908.
- (3) For the removal of doubts it is hereby declared that no duty under the Indian Stamp Act, 1899 or fee under the Registration Act, 1908 shall be payable on a declaration referred to in this section. 2 of 1899.
- Recovery of dues of a credit agency as an arrear of land revenue. 7. Any amount due from an agriculturist towards the financial assistance to him by any credit agency shall be recoverable as an arrear of land revenue under the Bengal Public Demands Recovery Act, 1913. Ben. Act III of 1913.
- Amendment of section 8 of Act 32 of 1956. 8. For the purposes of this Act any reference to Court in section 8 of the Hindu Minority and Guardianship Act, 1956 shall be construed as reference to the Collector and the appeal against the order of the Collector shall lie to the Commissioner.
- Exemption. 9. It is hereby declared that nothing contained in section 14M of the West Bengal Land Reforms Act, 1955, shall apply to any land owned as a *raiyat* by a credit agency. West Ben. Act X of 1956.
- Power to make rules. 10. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—
- (a) the form and manner of submitting declaration under sub-section (1) of section 6;
 - (b) the time within which and the manner in which the copy of the declaration referred to in sub-section (2) of section 6 shall be forwarded to the Registering Officer;
 - (c) any other matter which may be or is required to be prescribed.