

ASSAM ACT VI OF 1943
THE ASSAM MONEY LENDERS' (AMENDMENT) ACT, 1943
(Passed by the Assam Legislature.)

(Received the assent of the Governor-General on the 25th June 1943.)
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An Act to amend the Assam Money Lenders' Act, 1934

Preamble. Whereas it is expedient to make better provision for the safety of debtors by amending the existing Act : Assam Act IV of 1934.

It is hereby enacted as follows :—

Short Title. 1. (1) This Act may be called the Assam Money Lenders' (Amendment) Act, 1943.

Commencement. (2) It shall come into force at once and it shall apply to pending suits and appeals.

Extent. (3) It extends to the whole of Assam in which the Assam Money Lenders' Act, 1934, is in force. Assam Act IV of 1934.

(4) That the provisions of the Transfer of Property Act, 1882, the Indian Contract Act, 1872, the Indian Registration Act, 1908, and the Civil Procedure Code, 1908, shall, to the extent necessary to give effect to the provisions of this Act, be deemed to have been repealed or modified Act IV of 1882.
Act IX of 1872.
Act XVI of 1908, and
Act V of 1908.

Amendment of section 2. 2. (1) That after the word "person" in sub-section (1) of section 2 of the principal Act, a "comma" and the following words, "Society or Bank either private or registered under the Co-operative Societies Act, 1912, or the Indian Companies Act, 1913" be inserted. Act II of 1912.
Act VII of 1913.

(2) That in sub-section (3) of section 2 of the principal Act, the words "and shall include any bond bearing interest executed in respect of past liabilities" be deleted.

(3) That after the word "loan" in line 5 in sub-section (3) of section 2 of the principal Act, the following words be inserted, namely :—

"but it shall not include a deposit of money in a Government Post Office Bank".

(4) That in the last line of sub-section (3) of section 2 of the principal Act, after the word "and" the following be added, namely :—

"also a bond taken for arrears of rent shall be considered to constitute a loan."

Amendment of section 4. 3. (1) That in the first line of section 4 of the principal Act, after the word "made" the words "before or" be added.

(2) That the proviso to section 4 of the principal Act be deleted.

Amendment of section 8. 4. That for section 8 of the principal Act, the following shall be substituted, namely :—

"8. Where in any suit in respect of any money lent or any security taken for money lent by a money-lender after the commencement of the Usurious Loans Act, 1918, it is found that the interest charged exceeds the rate of 9 $\frac{3}{8}$ per cent. per annum in the case of a secured loan or 12 $\frac{1}{2}$ per cent. per annum in the case of an unsecured loan, the Court shall not decree as interest any sum in excess of 9 $\frac{3}{8}$ per cent. per annum and 12 $\frac{1}{2}$ per cent. per annum respectively.

Act X of 1918.

Explanation.—"Secured Loans" means mortgage debts as well as bonds, for the satisfaction of the interest whereof land has been delivered by debtors, in conformity with local custom, into the possession of creditors to be enjoyed in lieu of interest by the latter."

Amendment of section 9. 5. That for section 9 of the principal Act, the following shall be substituted, namely :—

"9. (1) No money-lender shall, in respect of any loan made before or after the commencement of this Act, recover, on account of interest and principal, whether through Court or otherwise or by way of usufruct of lands in usufructuary mortgages, a sum greater in aggregate than double the principal of the loan :

Provided that nothing in this sub-section shall affect :—

(i) A Bank advancing money at interest not exceeding 6 per cent. per annum

or

(ii) Subscribers to a loan made to or debentures or other securities of any description issued by Government, a public body, a Bank, or a Company.

Explanation.—The term 'aggregate' means and includes the amount already paid amicably or otherwise.

(2) Notwithstanding anything contained in sub-section (1), a usufructuary mortgage, in cases where the loan did not exceed five hundred rupees in principal, shall, unless discharged previously, be deemed to stand discharged :—

(i) if the mortgage was executed before the commencement of the Assam Money Lenders' (Amendment) Act, 1943, after the expiration of twelve years from the date of such execution, or

(ii) if the mortgage was executed after the commencement of that Act, after the expiration of nine years from the date of such execution.

(3) In the case of a bond or any other instrument executed for past liabilities the original sum actually advanced shall be considered as the principal of the loan for the purpose of sub-section (1).

(4) The heirs, successors or assigns of a mortgagor shall have the same rights under this section as the original mortgagor would have had, and if by any instrument executed subsequently to the original instrument any property has been substituted for the property mortgaged by the original instrument, the provisions of this section shall apply to the property so substituted as if it were the property mortgaged by the original instrument."