



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Provisions of Facilities for  
Agricultural Credit by Banks  
Bill, 2004**

(Bill No. 3 of 2004)

  
\_\_\_\_\_  
(~~To be~~ introduced in the Legislative Assembly of the State of Goa)  
\_\_\_\_\_

**GOA LEGISLATURE SECRETARIAT  
ASSEMBLY HALL, PORVORIM,  
FEBRUARY, 2004**

# The Goa Provisions of Facilities for Agricultural Credit By Banks Bill, 2004

(Bill No. 3 of 2004)

A

BILL

05 *to make better provision for the adequate supply of credits for increasing agricultural production and development in the State and for that purpose to remove any restrictions on alienations of certain agricultural lands, so that banks may provide credit on such agricultural lands, to provide for the speedy recovery of dues of such banks which provide credit; and to provide for matters connected with and incidental to the purpose aforesaid.*

10 Be it enacted by the Legislative Assembly of Goa 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 Goa Provision of Facilities for Agricultural Credit by Banks Act, 2004.

(2) It extends to the whole of the State of Goa.

15 (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

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

20 (a) “agriculture” of “agricultural purpose” includes making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, raising and harvesting of crops, horticulture, floriculture, high tech projects under agriculture, forestry,  
25 planting, farming and cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture, apiculture,

sericulture, piggery, poultry farming and such other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities including marketing of agricultural products, their storage and transport and the acquisition of implements and machinery in connection with any such activity; and also including the purpose enumerated in section 111 of the Maharashtra Co-operative Societies Act, 1960, (Maharashtra Act XXIV of 1961), as in force in the State of Goa;

(b) "agriculturist" means a person who is engaged in agriculture;

(c) "Agro-Industries Corporation" means a company or other body corporate, one of the principle objectives of which is to undertake activities connected with or intended for the development of agriculture, and not less than fifty-one percent of the paid up share capital of which is held by the Central Government or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments;

(d) "bank" means.

(i) a banking company as defined in the Banking Regulations Act, 1949 (Act No. 10 of 1949);

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Act No. 23 of 1955);

(iii) a Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Act 38 of 1959);

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (Act 5 of 1970);

(v) any banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 (Act No. 10 of 1949);

(vi) the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (Act No. 61 of 1981);

(vii) any Agro-Industries Corporation;

(viii) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (Act 1 of 1956);

(ix) any other financial institution notified by the State Government in the Official Gazette as a bank, for the purpose of this Act;

(e) "Co-operative society" means a co-operative society registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960, (Maharashtra Act XXIV of 1961), as in force in the State of Goa, and the object of which is to provide financial assistance to its members, and includes a co-operative land development bank;

(f) "financial assistance" means assistance granted by way of loans, advances, guarantee or otherwise for any agricultural purpose for purchase of shares of any co-operative agricultural processing society or any co-operative society undertaking land development or improvement works including lift irrigation;

(g) "Government" means the Government of Goa;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "notification" means a notification published in the Official Gazette;

(j) "Registrar" means a person appointed to be the Registrar of Co-operative Societies under the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as in force in the State

of Goa and includes any person appointed to assist the Registrar under section 3 of that Act;

3. *Removal of restrictions on alienation.*—

Notwithstanding anything contained in any law for the time being in force or in any custom or usage which restrict the right to alienate any land or any interest therein, it shall be lawful for an agriculturist to alienate (whether by creation of a charge or mortgage on such land, or any other interest) any land to the extent of his right therein, or any right, title and interest he may have in the land, in favour of a bank for the purpose of obtaining financial assistance from that bank.

05

10

4. *Charge on crop and other movable property in favour of a bank.*— (1) It shall be lawful for such 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 bank, to secure financial assistance from that bank, notwithstanding that he may be the owner of the land on or from which the crop or other produce is raised.

15

20

(2) Where a charge is created for any financial assistance given to an agriculturist by a bank, them notwithstanding anything to the contrary in the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as in force in the State of Goa, no subsequent charge in respect of financial assistance provided by a co-operative society shall have priority over such charge on the crops raised by him, standing or otherwise, or nay other movable property, in respect of any financial assistance given to him by the bank.

25

(3) A bank may distrain and sell, through an officer designated by the State Government in this behalf, the crop or other produce or any movables charged to that bank to the extent of the agriculturist's interest therein, and appropriate the proceeds of such sale towards all moneys due to the bank from that agriculturist.

30

5. *Creation of charge on land in favour of a bank by declaration.*— (1) Where an agriculturist creates a charge on land or any other immovable property, which he owns or in which he has an interest, in respect of any financial assistance given to him by a bank, he may make a declaration in accordance with the form set out in the Schedule or as near thereto as circumstances permit, declaring that thereby he creates, in favour of the bank, a charge on such land or his interest therein, or other immovable property, as the case may be, to secure the financial assistance provided to him by the bank.

05

10

(2) A declaration made under sub-section (1) may be varied, from time to time, by the agriculturist with the consent of the bank in whose favour the declaration has been made.

15

6. *Removal of disability in creation of charges and mortgages.*— Notwithstanding anything to the contrary contained in the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961) as in force in the State of Goa or any other law for the time being in force, and notwithstanding that any land or any interest therein stand already charged or mortgaged to a co-operative society, an agriculturist may create a charge on or mortgage such land or interest therein in favour of a bank as security for any financial assistance given to the agriculturist by that bank, provided that prior notice thereof is given by such agriculturist and by that bank to the co-operative society concerned.

20

25

7. *Priority of charges and mortgages in favour of a bank, Government and co-operative society.*— (1) Notwithstanding anything to the contrary contained in any law for the time being in force.—

30

(a) any charge created or mortgage given by an agriculturist in favour of or to a bank, shall, after the commencement of this Act if prior in time, have priority over any subsequent charge or mortgage in favour of Government or a co-operative society; and

35

(b) any charge created or mortgage given on any land or interest therein, in favour of a bank, in respect of financial assistance given to an agriculturist by that bank, shall have priority over any other charge or mortgage in or over such land or interest therein in favour of any person other than Government or co-operative society or any other bank, notwithstanding that such charge or mortgage is prior in time to the charge or mortgage created in favour of the bank.

(2) Where different charges or mortgages on the same land or interest therein, are created by an agriculturist in favour of Government, one or more co-operative societies or one or more banks, any such charges created or mortgages given a security for financial assistance given by the Government, co-operative society or bank by way of term loan for development purposes, shall have priority any other charges or mortgages created or given in favour of Government, co-operative societies or banks, provided a notice of such financial assistance by way of term loan for development purposes have been given to such Government, co-operative society or bank, and that Government, co-operative society or bank has consented to the financial assistance being given; and where more than one such charge or mortgage is created or given a security for financial assistance by way of term loan, the charges or mortgages by way of security for the term loan for development purposes shall rank in priority interest in accordance with the dates of their creation.

*Explanation.*— For the purpose of this section, “term loan for development purposes” means financial assistance which will generally result in improvement of agriculture or the building up of tangible assets in agriculture, but does not include financial assistance for working capital expenses, seasonal agricultural operations or marketing crops/products.

(3) Nothing in this section shall apply—

(i) to borrowings only from one or more co-operative societies, and

(ii) to the recovery of sums due to the Government as arrears of land revenue.

8. *Registration of charge or mortgage in favour of a bank.*—Notwithstanding anything contained in the Registration Act, 1908 (Act 16 of 1908), it shall not be necessary to register a charge in respect of which a declaration has been made under sub-section (1) of section 5, or in respect of which a variation has been made under sub-section (2) of that section, or a mortgage executed by an agriculturist in favour of a bank and such charge, variation or mortgage shall have effect from the date it is created made, Provided that the bank sends within such time and in such manner as may be prescribed a copy of the instrument whereby the charge, variation or mortgage is created or made to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property charges or mortgaged is situated, and such Registering Officer shall file a copy or copies, as the case may be, in his Book No. 1 prescribed under section 51 of the Registration Act, 1988 (Act 16 of 1908).

9. *Nothing of charge or mortgage created in favour of a bank in record of rights.*— Whenever a charge is created or mortgage is given on land or interest therein, in favour of a bank in respect of financial assistance given to an agriculturist by that bank, the bank shall give intimation to the Talathi or such other Revenue Officer as may be designated in this behalf by the Government, of the particulars of the charge or mortgage in its favour. The Talathi or the other Revenue Officer shall make a note of the particulars of the charge or mortgage in the Record of Rights, relating to the land over which the charge or mortgage has been created. The bank shall likewise give an intimation to the Talathi or the other Revenue Officer as soon as the financial assistance given by it to the

agriculturist ceases to be outstanding and thereupon the Talathi or the other Revenue Officer shall make a suitable note in the Record of Rights about release of the land from the charge or mortgage, as the case may be.

10. *Restriction on creation of tenancy by agriculturist borrower.*— (1) Notwithstanding anything contained in any law for the time being in force, an agriculturist who has availed himself of financial assistance from a bank by creating or mortgage on land or interest therein, shall not, after he had availed of such assistance and so long as such assistance continues to be outstanding, lease that land or interest therein or create any tenancy right thereon, or enter into an agreement of sale without prior permission in writing of the bank.

(2) Any lease granted or tenancy rights created in contravention of this section shall be void.

11. *Recovery of dues of a bank.*— (1) Any amount due to the bank on account of financial assistance available by the agriculturist in pursuance of the provisions of this Act or the rules may be recovered in the same manner as an arrears of land revenue under the provisions of the Goa, Daman and Diu Public Moneys (Recovery of Dues Act, 1987 Goa Act 10 of 1987)

(2) Nothing in this section shall debar a bank from seeking relief from the Court of law to enforce its rights.

12. *Rights of bank to acquire and depose of immovable property.*— (1) Notwithstanding anything contained in any law for the time being in force, a bank shall have power to itself acquire agricultural land or interest therein or any other immovable property which has been charged or mortgage to it by an agriculturist in respect of any financial assistance availed of by him, provided, the said land or interest therein or any other immovable property has been sought to be sold by public auction and no person has offered to purchase it for a price which is sufficient to pay to the bank the moneys due to it.

(2) A bank which acquires land or interest therein or any other immovable property in pursuance of the power vested in it under Sub-section (1) shall dispose it of by sale, within a period to be specified by the Government in this behalf.

(3) If the bank leases out any land acquired by it under sub-section (1) pending sale thereof as indicated in sub-section (2), the period of lease shall not exceed one year at a time and the lessee shall not acquire any right to purchase that property notwithstanding any provisions to the contrary contained in any other law for the time being in force.

(4) A sale by a bank of land or interest therein under this section shall be subject to any provisions of any law in force which may place restrictions on purchase of land by non-agriculturists or ceiling for acquisition of land or interest therein or by a person not belonging to a particular tribe or scheduled caste fragmentation of land.

(5) That such land if sold due to attachment or non-payment of the loan shall remain to be tenanted land for purpose of use and further transfer and only the buyer from the financial institutions shall be allowed to purchase the same notwithstanding anything in the Tenancy Act.

13. *Exemption to banks from restrictions on acquisition of land in excess of ceiling.*— Nothing in any law for the time being in force placing a ceiling or limit on the holding of land shall apply to a bank acquiring land under this Act, and holding such land till time the bank sells the land in the manner provided in the last proceeding section or otherwise at a price which is adequate to cover its dues.

14. *Bank eligible to become member of co-operative society.*— Notwithstanding anything contained in the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961) as in force in the State of Goa, or the bye-laws of a resource society as defined in that Act or any law for the time being in force, it shall be lawful, for a bank to become a member of a co-operative society.

15. *Inspection of books of a co-operative society by a bank.*—(1) A bank shall have the right to inspect the books of any co-operative society, which has either applied to the bank for financial assistance or is indebted to the bank on account of financial assistance given earlier.

05

(2) The inspection may be carried out by an official or any member of the paid staff of the bank, with the previous sanction in writing of the Registrar.

(3) The Officer or other member of the paid staff of the bank undertaking such inspection shall at all reasonable times, have access to the books of accounts, documents, securities, cash and other properties belonging to or in the custody of the co-operative society inspected by him, and shall also be supplied by such society such information, statements and returns as may be required by him to access the financial condition of the society and the safety of financial assistance to be given to the society or already given to it.

10

15

16. *Disputes between a bank and co-operative society.*—

(1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management or business of a co-operative society, between a bank financial a co-operative society and the co-operative society so financial, other than disputes regarding disciplinary action take by the society or its committee against a paid employee of the society, shall be referred by either of the parties to the dispute, to the Registrar for decision.

20

25

(2) Where any question arises whether for purposes of the foregoing sub-section, a matter referred to for decision is a dispute or not, the question shall be decided by the Registrar, whose decision shall be final.

30

17. *Settlement of Disputes.*— If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section of 16 of this Act, the

Registrar shall decide the dispute himself or refer it for disposal to a nominee or a board of nominees by him or any other authority competent to decide such dispute under the Maharashtra Co-operative Societies Act, 1960, (Maharashtra Act XXIV of 1961), as in force to the State of Goa, and thereaf all the provisions of that relating to disputes, such determination of disputes, shall mutates mutandis apply, as if it were a dispute within the meaning of and under that Act itself.

05

18. *Recovery of money awarded.*— The provisions of section 156 of the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as in force in the State of Goa and the rules made thereunder shall also apply to the recovery of any amount found due to a bank.

10

19. *Powers of a bank to proceed against defaulting members of a co-operative society.*— (1) If a co-operative society is unable to pay its debts to a bank from which it has borrowed by reason of its members defaulting in the payment of the moneys due by them, the bank may direct the committee of such society to proceed against such members by taking such action as is by the Maharashtra Co-operative Societies Act, 1960, (Maharashtra Act XXIV of 1961), as in force to the State of Goa.

15

20

(2) If the committee of the co-operative society fails to proceed against the defaulting members within a period of ninety days from the date of receipt of such directions from the bank, the bank itself may, under intimation to the Registrar, proceed against such defaulting members in which event, the provisions of the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as in force in the State of Goa and the rules and bye-laws made thereunder shall apply, as if all references to the society or its committee in the said provisions, rules and bye-laws were references to the bank.

25

30

(3) Where a bank has obtained a decree or award against a co-operative society indebted to it, the bank may proceed

35

recover such moneys firstly from the assets of the co-operative society to the extent of debts due to the society.

20. *Audit, inquiry and inspection reports of societies be available to banks.*— The Registrar shall draw the attention of a bank financing a co-operative society to the defects noticed in every audit or inquiry or inspection conducted under the Maharashtra Co-operative Societies Act, 1960, (Maharashtra Act XXIV of 1961), as in force in the State of Goa, and shall also supply to the bank a copy each of such audit, inquiry or inspection report, if demanded, in writing by it.

21. *Exemption from legislations relating to money lending and relief of agricultural indebtedness.*— Nothing contained in the Goa, Daman and Diu Money Lender Act, 1977 (Act 7 of 1977), or any other law relating to money/lending and money lenders or in any law relief of agricultural indebtedness for the time being in force shall apply to financial assistance availed of by an agriculturist from a bank.

22. *Mortgages not to be questioned on insolvency of mortgagers.*— Notwithstanding anything contained in the Goa, Daman and Diu (Extension of the Provincial Insolvency Act) Act, 1967 (Act I 1968), or any corresponding law for the time being in force, a mortgage executed in favour of a bank shall not be called in question in any insolvency proceedings on the ground that it was not executed in good faith for valuable consideration on the ground that it was executed in order to give the bank a preference over other creditors of the mortgager.

23. *Power of State Government to make rules.*— (1) The power to make rules under this Act, shall be exercisable by the State Government by Notification in the Official Gazette and shall be subjected to the condition of previous publication.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act generally to carry out the purpose of this Act.

SCHEDULE

Declaration under sub-section (1) of section 5

I, ..... (aged ..... years) residing ..... being desirous of availing myself of financial assistance from the ..... Bank ..... Make this declaration as required by section 5 (1) of the Goa Provision of Facilities for Agricultural Credit by Banks Act, 2004 that I, ..... own the land/have interest as a tenant in the land, in the area specified below, and I hereby create a charge on the said land interest in the said land, in favour of the bank for securing the financial assistance which the bank may give and for all future assistance if, any, which the bank may give to me together with interest and costs and expenses thereon.

The necessary previous sanction of the Mamlatdar as required under section 18K of the Goa, Daman and Diu Agricultural Tenants Act, 1964 (Act 7 of 1964), is enclosed herewith.

15	Name of Village	Name of Taluka	Name of District	Survey No./ /City	Boundaries		Area Hectar
					South	North	
					Plot	Plot	East West

20	Assessment		Encumbrances, if any			
	Rupees	Paise	Approximate Value	Nature	When amount created	Remarks if any

In witness whereof, I, Shri ..... hereunder set my hand this ..... day of ..... in the year Two thousand .....

25 Witnesses;  
Signed and delivered by the abovenamed in the presence of  
(1)  
(2)

Attested by .....

Signature of the declarant



Forwarded with compliments to the Talathi or other designated Revenue Officer with request to include the particulars of the charge ..... Created under the declaration in the Record of Rights and to return to the bank for its record.

Manager/Agent 05

..... Bank

Date ..... Place .....

Returned with compliments to the Manager/Agent ..... Bank.

The charge created under the declaration is duly included in the Record of Rights, on the ..... Day of ..... 200 ..... 10

Date .....

Talathi or other designated Revenue Officer

Forwarded with compliments to the Sub-Registrar, with a request to record the particulars of the charge ..... created under the declaration in his office. 15

Manager/Agent

..... Bank

Date ..... Place ..... 20

Returned with compliments to the Manager/Agent ..... Bank. The charge created under the declaration is duly recorded.

Date ..... Sub-Registrar

Statement of Objects and Reasons

It is found expedient to make better provisions for the equate supply of credits for increasing agricultural production development in the State and for that purpose to remove restrictions on alienation of certain agricultural lands so that banks may provide credit on such agricultural land so also, to provide for the speedy recovery of dues of such banks and for matters connected with or incidental to the purpose aforesaid.

This Bill Seeks to achieve above objects.

Financial memorandum

There are no financial implications.

Memorandum on Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim-Goa  
9th February, 2004

PANDURANG MADKAIKAR  
Minister for Revenue

Assembly Hall  
Porvorim-Goa  
9th February, 2004

S. A. Narvekar  
Secretary (Legislature)