



Bill Summary

The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011

- The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 was introduced by the Minister of Finance, Mr. Pranab Mukherjee in the Lok Sabha on December 12, 2011. This Bill seeks to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.
- The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 does not allow securitisation or reconstruction companies to convert the debt of the borrower company into equity. The Bill proposes to provide for conversion of any part of debt into shares of a borrower company.
- The Bill proposes to include multi-state co-operative banks in the definition of banks in the existing Act.
- The 2002 Act requires banks and financial institutions to consider representations from borrowers and communicate their response within a period of seven days. The Bill seeks to increase this period within which the response is to be sent to the representation of the borrower to 15 days.
- Currently, banks are not empowered to accept any immovable property in realisation of the claim against the defaulted borrower in the situation where banks are unable to find a buyer for such assets. The Bill proposes to empower banks and financial institutions to accept the immovable property in full or partial satisfaction of the bank's claim against the defaulting borrower in times when they cannot find a buyer for the securities.
- The Bill also seeks to enable banks or any person to file a caveat so that before granting any stay, the bank or person is heard by the Debt Recovery Tribunal.
- The Bill proposes to provide for registration of transactions of securitisation, reconstruction or creation of security interest in the Central Registry, which are subsisting on or before the establishment of Central Registry. It also seeks to give powers to the central government to extend the time for filing of such transaction with the Central Registry.
- The central government may exempt a class or classes of banks or financial institutions from the provisions of this Act on grounds of public interest.
- The Bill proposes to include multi-State co-operative banks to the existing definition of bank in the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.
- The Bill also seeks to permit multi state co-operative banks with respect to debts due before or after the commencement of the proposed legislation, to opt to initiate proceedings either under the Multi State Co-operative Societies Act, 2002 or under the Debt Recovery Tribunal.
- The Bill proposes to enable banks and financial institutions to enter into settlement or compromise with the borrower. It also seeks to empower the Debts Recovery Tribunal to pass an order acknowledging any such settlement or compromise.
- The Bill also provides that the recovery proceedings pending in relation to recovery of debts due to any multi State co-operative banks, before this Act comes into force, shall continue in a manner as if such amendments had not come into force.

DISCLAIMER: This document is being furnished to you for your information. You may choose to reproduce or redistribute this report for non-commercial purposes in part or in full to any other person with due acknowledgement of PRs Legislative Research ("PRs"). The opinions expressed herein are entirely those of the author(s). PRs makes every effort to use reliable and comprehensive information, but PRs does not represent that the contents of the report are accurate or complete. PRs is an independent, not-for-profit group. This document has been prepared without regard to the objectives or opinions of those who may receive it.