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NOTIFICATION

No.H.12018/213/2010-LJD, the 19th October, 2010. The following Act of the Mizoram Legislative Assembly, which received the assent of the Governor of Mizoram is hereby published for general information.

The Mizoram Money Lenders and Accredited Loan Providers
(Regulation) Act, 2010 (Act No. 12 of 2010)

(Received the assent of the Governor of Mizoram on 1.10.2010.)

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to regulate money lending in the State of Mizoram and for matters connected therewith and incidental thereto.

Whereas, it is expedient to make provisions for protecting the interests of borrowers, for regulating the transactions of money lending and to secure more transparency in such transactions in the State of Mizoram:

It is enacted by the Legislature of the State of Mizoram in the Sixty first Year of the Republic of India as follows :-

Chapter 1 - Preliminary

Short title, extent and commencement.

- (1) This Act may be called the Mizoram Money Lenders and Accredited Load Providers (Regulation) Act, 2010

- (2) It shall extend to the whole of the State of Mizoram except the areas covered under Lai, Mara and Chakma Autonomous Districts constituted under Sixth Schedule to the Constitution of India.
- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

Provided that different dates may be appointed for different sections of the Act.

- (4) Nothing contained in this Act shall apply to the Reserve Bank or any bank or any Non-Banking Financial Companies/Micro Finance Companies registered under the Reserve Bank of India.

2. Definitions, in this Act, unless the context otherwise requires;-

- (1) "Accredited Loan Provider" means a person or a firm who or which has a contractual arrangement with an institutional creditor for receiving finance from such institutional creditor for the purpose of lending to the borrowers in his or its own name:
- (2) "Bank" means
 - (i) A banking company or a cooperative bank to which the Banking Regulation Act, 1949 (*Central Act 10 of 1949*) applies;
 - (ii) The State Bank of India constituted under the State Bank of India Act, 1955 (*Central Act 23 of 1955*)
 - (iii) A subsidiary bank as defined in the State Bank of India (*Subsidiary Banks*) Act, 1959 (*Central Act 38 of 1959*):
 - (iv) A corresponding new bank constituted under the Banking Companies (*Acquisition and Transfer of Undertakings*) Act, 1970 (*Central Act 5 of 1970*)
 - (v) A corresponding new bank constituted under the Banking Companies (*Acquisition and Transfer of Undertakings*) Act, 1980 (*Central Act 40 of 1980*) and
 - (vi) A regional Rural Bank established under the Regional Rural Banks Act, 1976 (*Central Act 21 of 1976*)
- (3) "Borrower" means a person to whom a loan is advanced and includes a successor-in-interest or surety;
- (4) "Co-operative society" means a society registered or deemed to have been registered under the Mizoram Co-operative Societies Act, 2006 or any other Act relating to Co-operative societies and includes a multi state co-operative society registered under the Multi-State Co-operative Societies Act, 2002 (*Central Act 39 of 2002*)
- (5) "Fast-Track Court" means a Court established as such by the State Government for adjudication of disputes under the Act.
- (6) "Institutional creditor" means any bank which has advanced or agreed to advance monies to accredited loan providers for the purpose of on-lending.

"Interest" includes the return to be made over and above what is actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise, but does not include any sum lawfully charged by a money lender or accredited loan provider as costs, charges, expenses towards evaluation, assessment and creation of the security.

"Loan" means an advance, whether of money or kind, at interest, with or without security, and includes advance, discount, money paid for or on account of or on behalf of or at the request of any person, or the forbearance to require payment of money owing on any account whatsoever, and every agreement (*whatever its terms or form may be*) which is in substance or effect a loan of money, and also an agreement to secure the repayment of any such loan, but does not include :-

- (a) A deposit of money or other property in a Government Post Office Bank or in a Government Savings Bank;
- (b) A loan advanced by the State Government or by any local authority authorised by the State Government;
- (c) A deposit of money with or a loan advanced by a co-operative society;
- (d) A loan advanced by the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (*Central Act 61 of 1981*);
- (e) A loan advanced by the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (*Central Act 28 of 1981*);
- (f) A loan advanced by the Small Industries Development Bank of India, established under the Small Industries Development Bank of India Act, 1989 (*Central Act 39 of 1989*);
- (g) A loan advanced by the National Housing Bank constituted under the National Housing Bank Act, 1987 (*Central Act 53 of 1987*);
- (h) a loan advanced by State Financial Corporations established under the State Financial Corporation Act, 1951 (*Central Act 63 of 1951*);
- (i) a loan advanced by any institution
 - (I) *Established by or under an Act of Parliament or the legislature of a State, which grants any loan or advance in pursuance of the provisions of that Act; or*
 - (II) *Notified in this behalf by the State Government, in consultation with the Reserve Bank;*
- (j) An advance made to a subscriber or a depositor in a Provident Fund from the amount standing to his credit in the fund in accordance with the rules of the fund;
- (k) A loan to or by an insurance company as defined in the Insurance Act, 1938 (*Central Act IV of 1938*);
- (l) A loan or debenture in respect of which dealings are listed on any Stock Exchange;
- (m) a loan or deposit to or by a non-banking financial company registered with Reserve Bank under chapter III B of the Reserve Bank of India Act, 1934 (*Central Act 2 of 1934*);
- (n) A loan to, or by, or a deposit with, any charitable society or association registered under the Mizoram Societies Registration Act, 2006.
- (o) An advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881 (*Central Act XXXVI of 1881*) other than a promissory note;
- (p) a loan or advance made by a trader bonafide carrying on any business, other than money lending, if such loan is advanced in the regular course of such business;

- Explanation :** For the purposes of clause (p), "trader" means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable and includes a wholesale or a retail merchant.
- (9) "Money lender" means a person whose main or subsidiary occupation is the business of advancing and realising loans in the State;
- (10) "Prescribed" means prescribed by rules made under this Act;
- (11) "Principal" means in relation to a loan, the advance actually made to a borrower;
- (12) "Register" means a register of money lenders or accredited loan providers maintained under this Act;
- (13) "Registering authority" means a person or an Officer appointed by the Government to perform the functions of the registering authority under this Act.
- (14) "Registration" means a money lender's registration or accredited loan provider's registration granted under this Act;
- (15) "Reserve Bank" means the Reserve Bank of India constituted under Section 3 of the Reserve Bank of India Act, 1934 (*Central Act 2 of 1934*);
- (16) "Rules" means rules made under this Act;
- (17) "State Government" means the Government of the State of Mizoram;

Chapter II : Appointment and powers of Registering authority, Registration of Money Lenders etc.

3 Appointment of registering authority

The State Government may, by notification in the Official Gazette, appoint such person, whether public Officer or not as it thinks proper, to be registering authorities of the money lenders and accredited loan providers for the purposes of this Act and may define the areas within which each such authority shall exercise his powers and perform his duties.

4 Register of Money Lenders

- (1) Every registering authority shall maintain for the area under its jurisdiction the registers of all money lenders having valid registration in such form as may be prescribed
- (2) The registers maintained under sub-section (1) shall be published in such manner and at such intervals as may be prescribed.

5 Money lender to obtain registration

- (1) No money lender shall commence or carry on the business of providing loan at any place to which this Act applies without obtaining a registration under this Act

- (2) Every application for a money lender's registration and for a renewal of money lender's license shall be in writing in the prescribed manner and form and shall be made to the registering authority along with prescribed fee;
- (3) Every registration granted by the registering authority shall be in such form and subject to such conditions as may be prescribed;
- (4) A registration shall be valid within the local area as specified in the registration for a period of three years:

Provided that when an application for renewal of a registration has been received by the registering authority within the prescribed period, the registration shall, until the application is finally disposed of, be deemed to be valid;

- (5) The registering authority may, at any time for sufficient cause, suspend or cancel a registration granted under sub-section (3)

Provided that no order suspending or cancelling the registration shall be passed except after giving the money lender an opportunity of showing cause against the proposed action;

Explanation : For the purposes of sub-section (5), prosecution or conviction of a money lender for violating any of the provisions of this Act shall be sufficient cause for suspension or cancellation of his registration.

Chapter III : Maintenance of Books of Accounts and Submission of Returns

6. Duty of money lender to maintain accounts and furnish copies.

- (1) Every money lender shall keep and maintain a cash book, a ledger, register of securities and such other books of accounts in such form and in such manner as may be prescribed.

- (2) Every money lender shall -

- a) deliver or cause to be delivered, to the borrower within seven days from the date on which a loan is made, a statement in the prescribed form showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the money lender and the rate of interest charged:

Provided that no such statement shall be required to be delivered to a borrower if he is supplied by the money lender, with a pass book in the prescribed form containing an up-to-date account of the transactions with the borrower;

- b) Upon repayment of a loan in full, mark indelibly every paper signed by the borrower with words indicating payment or cancellation, and discharge every mortgage, restore every pledge, return every document or note and cancel or reassign every assignment given by the borrower as security for the loan.

- (3) No money lender shall receive any payment from a borrower on account of any loan without giving him a duly signed receipt for the payment

- (4) No money lender shall accept from a borrower any article as a pawn, pledge or security for a loan without giving him a signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed.
- (5) A money lender shall, on a demand in writing by the borrower, and tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security therefore, to the borrower, or if the borrower so requires, to any person specified in that behalf in the demand.

Submissions of accounts, returns, etc.

Every money lender shall file such statements of accounts and submit returns to the registering authority, at such intervals and on or before such dates as may be prescribed.

8. Power to require production of records or documents and power of entry, inspection and seizure

- (1) The registering authority or any officer authorized by the State Government in this behalf may, to verify whether the business of the money lender is carried on in accordance with the provisions of this Act, enter the premises of the money lender or any person who in his opinion is carrying on the business of a money lender and call upon him to produce any record or document relating to such business and every such money lender or person shall allow such inspection and produce such record or document.
- (2) The registering authority may, for the purposes of the said sub-section, search the premises and seize any record and document as may be necessary and the record or document seized shall be retained only for such period as may be necessary for the purposes of examination, prosecution or other legal action:

Provided that the provisions of Sections 100 and 102 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1973) shall, so far as may be, apply to such search and seizure.

- (3) The registering authority or the other officer referred to in sub-section (1) shall also have power to summon and examine the money lender or any person who in his opinion is in a position to furnish relevant information.

9. Borrowers not bound to admit correctness of accounts.

A borrower to whom a statement of accounts or a pass book has been furnished under this Act shall not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the accounts.

Chapter IV : Dispute Resolution

0 Procedure in disputes regarding loan

(1) For the protection of debtors and for settlement of disputes under the Act, the state Government after consultation with the High Court, and by notification-

- (a) Shall, as soon as may be after the commencement of this Act, establish for every district in the State a Fast-Track Court.
- (b) May establish Fast-Track Court for such other areas in the State, as it may deem necessary,

Provided that if there are already in existence the Fast-Track Courts, all such cases shall be tried or adjudicated by the Fast-Track Court of the area, having competent jurisdiction.

- 2) The State Government shall, after consultation with the High Court specify, by notification, the local limits of the area to which the jurisdiction of a Fast-Track Court shall extend and may, at any time, increase, reduce or alter such limits.
- 3) The cases that are filed before the Fast-Track Court may be disposed of within a period of three months.
1. Power of Fast-Track Court to deposit money due on loan.
 - (1) The Fast-Track Court may, at any time, on application of a judgment debtor, after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after the date on which this Act comes into force, in respect of loan, shall be paid in such number of installments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgment-debtor and the amount of the decree, it considers fit.
 - (2) (a) Where a money lender refuses to accept the whole or any portion of the money due in respect of his loans, the borrower may deposit the said money into the Fast-Track Court, having jurisdiction in the matter and apply to the Fast-Track Court, as the case may be, to record full or part satisfaction of the loan.
(b) Where any such application is made, the Fast-Track Court, as the case may be, shall, after due inquiry pass orders recording full or part satisfaction of the loan, as the case may be.
2. Suits and applications by unregistered money lenders barred

Notwithstanding anything contained in any other enactment for the time being in force -

 - (i) A suit by a money lender for the recovery of a loan; or
 - (ii) An application by a money lender for the execution of a decree relating to a loan; or
 - (iii) An application for resolution of dispute through a Fast-Track Court shall be dismissed, unless at the time when the loan was advanced, the money lender held an affective registration.

Chapter V - Accredited Loan Provider's

3. Registration of accredited loan providers
 - (1) Any person or institution intending to engage himself or itself as an accredited loan provider shall apply to the registering authority constituted under section 3 of this Act for registration to carry on the business as an accredited loan provider.

Provided that only such persons who have the necessary educational qualification or knowledge of agriculture and rural economy, knowledge of maintenance of books of accounts and such other conditions as may be specified in the order issued by the State Government in this behalf shall be eligible to become accredited loan providers.

- (2) No such application by an accredited loan provider shall be entertained by the registering authority unless such application is countersigned by an institutional creditor having credit link the accredited loan provider.
- (3) No accredited loan provider shall commence or carry on the business of providing loan without obtaining a registration under the provisions of this chapter;
- (4) Every registration granted by the registering authority shall be in such form as may be prescribed,
- (5) Every registering authority shall maintain for the area under its jurisdiction the registers of all accredited loan providers having valid registration in such form as may be prescribed.
- (6) The registers maintained under sub-section (5) shall be published in such manner and at such periodic intervals as may be prescribed.

14. Submissions of accounts, returns etc.

- (1) Every accredited loan provider shall maintain such books of accounts and file such statements of accounts and returns as may be prescribed to the registering authority and a copy of such statement of accounts and returns shall also be furnished to the institutional creditor.
- (2) The institutional creditor shall, on a requisition from the registering authority, furnish the information concerning the loans provided by an accredited loan provider within such time as may be specified in the requisition.

15. Settlement of disputes

The provisions of the Legal Services Authorities Act, 1987 (Central Act No.39 of 1987) shall mutatis mutandi apply to any settlement of disputes between the accredited loan provider and the borrower under this Act.

16. Cancellation of registration

- (1) If the institutional creditor has informed the registering authority about the termination of its relationship with the accredited loan provider, the registering authority shall cancel the registration of the accredited loan provider.

Provided that if within a period of thirty days from the cancellation of the registration, such accredited loan provider enters into an agreement with another institutional creditor and his application is countersigned by the new institutional creditor, the registering authority shall restore the registration of such accredited loan provider.

- (2) The registering authority may, at any time for sufficient cause, suspend or cancel a registration granted under Section 13;

Provided that no order suspending or cancelling the registration shall be passed except after giving the accredited loan provider an opportunity to show cause against the proposed action.

Explanation : For the purposes of sub-section (2), prosecution or conviction of an accredited loan provider for violating any of the provisions of this Act shall be sufficient cause for suspension or collation of the registra-

Chapter VI - Interest Rate Ceiling

Limitation on rates of interest charged by money lenders and accredited loan provider's

- (1) The State Government may from time to time by notification specify the maximum rates of interest for any local area chargeable by money lenders and accredited loan providers and separate rates of interests may be specified in respect of secured and unsecured loans.
- (2) If any money lender or accredited loan provider charges or receives from a borrower interest at a rate exceeding the maximum rate fixed by the State Government under sub-section (1), he shall be liable for punishment under this Act.
- (3) The maximum rate of interest notified by the State Government under sub-section (1), shall be calculated by taking into account the interest rate trends, cost of transactions, cost of the capital, the risk premium and the administrative expenses associated with such loans.
- (4) All money lenders and accredited loan providers shall display the rates of interest charged by them, both on secured as well as unsecured loans, in a conspicuous place in their premises.

Maximum amount of interest recoverable on loans and discharge of loans in certain cases

- (1) No money lender or accredited loan provider shall recover towards the interest in respect of any loans advanced by him, an amount in excess of the principal amount.
- (2) Any loan in respect of which the money lender or accredited loan provider has realised from the debtor an amount equal to or more than twice the amount of the principal, shall stand discharged and the amount, if any, so realised in excess of twice the amount of the loan shall be refunded by the money lender or accredited loan provider, as the case may be, to the debtor.

Chapter VII - Offences and Penalties

Entry of wrong sum in bond, etc. to be an offence

- (1) No money lender or accredited loan provider shall take any promissory note, acknowledgment, bond or other writing which does not state the actual amount of the loan, or which states such amount wrongly or obtains any instrument in which blanks are left to be filled after execution.
- (2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a period not less than two years and a fine which may extend to twenty thousand rupees.

Penalty for salami, batta, dharmada etc.

If any Loan Provider or accredited loan provider or his agent takes from a borrower at the time of advancing a loan or deduct out of the principal of such loan any salami, batta, dharmada or other extraction of similar nature by whatever name called, he shall be punishable with fine which may extend to twenty thousand rupees.

Penalty for molestation

- (1) Whoever molests, or abets the molestation of, a borrower for the recovery of a debt due by

him to a money lender or accredited loan provider or his assignee as the case may be, shall, on conviction be punished with assignee, as the case may be, shall, on conviction, be punished with imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both.

Explanation : For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing :-

- (a) Obstructs or uses violence to or intimidates such other person, or
- (b) Persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use of any such property, or
- (c) Loiters at or near a house or other place where such other person resides or works, or carries on business, or happens to be, or
- (d) Does any act calculated to annoy or intimidate such other person or the members of his family, or
- (e) Moves or acts in a manner which causes or is calculated to cause alarm or danger to the person or property of such other person shall be deemed to molest such other person.

Provided that a person who goes to the house or place referred to in clause (c) in order merely to obtain or communicate information shall not be deemed to molest.

- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sub-section (1) shall be cognizable.

22. Penalty for carrying on business without registration

Whoever carries on the business of providing loans without obtaining registration or other wise than in conformity with the terms and conditions imposed by the registering authority shall be punished with imprisonment for a period not less than one year which may extend to five years and a fine of not less than fifty thousand rupees.

23. Penalty for contravention of the provisions of the Act

If any person contravenes any other provision of this Act, he shall be punishable with fine which may extend to ten thousand rupees.

24. Composition of offences

- (1) The Registering Authority or any other officer or authority authorised by the State Government, in this behalf may accept from the person who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence-
 - (a) A sum of money equal to the maximum amount prescribed as fine under this Act, if the offence is committed for the first time; and
 - (b) In other cases, twice the amount of such fine prescribed under the respective sections.

Provided that an offence with respect to which a proceeding is pending before the Court shall not be

compoundable.

- (2) Notwithstanding anything contained in sub-section (1), offence punishable under Section 21 of this Act shall be cognizable and shall not be compoundable.

25. Cognizance of certain offences

No Court shall take cognizance of any offence except the offence under Section 21, save on a complaint made by the Registering Authority or any other officer duly authorised in this behalf by the State Government.

Chapter VIII - Miscellaneous

26. Every officer to be public servant

Every officer of the Government and every person acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

27. Saving of laws relating to agriculturists' indebtedness

Nothing in this Act shall affect any of the provisions of any enactment relating to relief of agriculturists' indebtedness.

28. Power to make rules

- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- (2) Every rule made under this Act shall be laid, as soon as may be after it is made before the State Legislature, and if the State Legislature agree in making any modification in the rule or agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

29. Power to Exempt

The State Government may, after consultation with the Reserve Bank, by notification in the Official Gazette, exempt such money lenders or accredited loan providers, from all or any of the provisions of this Act, subject to such conditions as it may deem fit and for such period as may be specified.

30. Annual Report on the administration of the Act

The State Government shall prepare an annual report on the administration of this Act and the same shall be placed before the State Legislature.

Sd/-

Commissioner / Secretary
Law & Judicial Department,
Govt. of Mizoram.