

**Andhra Pradesh (Andhra Area) Debtors Protection Act,
1934**

7 of 1935

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An Act for the protection of certain classes of debtors in the [Andhra Area of the State of Andhra Pradesh]. Whereas it is expedient to make provision for the protection of certain classes of debtors in the 2[Andhra area of the State of Andhra Pradesh], and for that purpose to regulate the keeping of accounts by certain classes of creditors; And whereas the previous sanction of the Governor General has been obtained to the passing of this Act, it is hereby enacted as follows:-- 1. For Statement of Objects and Reasons, See Fort. St. George Gazette, Pt.IV, dated 30th August 1932, pp. 127-128; for Proceedings in Council, see Proceedings of the Madras Legislative Council Volume LXII, dated 3rd August 1932, pp. 209-210; for report of the Select Committee, see Fort St George Gazette, Part IV, dated 16th January 1934, pp 22-27; for Proceedings in Council, see Proceedings of the Madras Legislative Council, Volume LXXII, dated 1st August 1934, pp 45-93 and dated 3rd August 1934, pp. 235-203 and Volume IXXIII, dated 24th October 1934, pp. 276-289. 2. The word " State of Andhra were subs, for the words " Presidency of Madras" by the AO. 1953 and these words were subs, for the words " State of Andhra" by Andhra

Pradesh Act IX of 1961.

1. Short Title, Extent And Commencement :-

(1) This Act may be called 1[the Andhra Pradesh (Andhra Area) Debtors Protection Act, 1934].

(2) It extends to the whole of the 2[Andhra Area of the State of Andhra Pradesh].

(3) It shall come into force on such 3date as the State Government] may, by notification in the 4[Official Gazette]. appoint.

1. Short title subs. by A.P. Act 9 of 1961.

2. The word " State of Andhra * were subs, for the words " Presidency of Madras" by the AO. 1953 and these words were subs, for the words " State of Andhra" by Andhra Pradesh Act IX of 1961.

3. Came into force w.e.f. 15-1-1936.

4. Substituted for the words "Fort St. George Gazette" by A.O. 1937.

2. Definitions :-

In this Act, unless there is any thing repugnant in the subject or context,

(1) "bank" means a company carrying on the business of banking and--

(a) registered under any of the enactments relating to companies for the time being in force [in [any part of India] or] in the United Kingdom or in any of the British Dominions, or in any of the Colonies or Dependencies of the United Kingdom, 1[***] or

(b) incorporated by an Act of Parliament [of the United Kingdom] or by Royal Chapter or letters Patent or by any Central Act 1[xxx]

(3) "Co-operative society" means a society registered or deemed to be registered under 2[the Andhra Pradesh (Andhra Area) Co-operative Societies Act, 1932];

(4) "Court" includes a court acting in the exercise of insolvency jurisdiction;

(5) "Creditor means a person, 3[xxx] who in the regular course of business advances a loan and includes the legal representative and the success or -in interest whether by inheritance, assignment or otherwise of the person who advanced the loan;

(6) "interest" does not include any sum lawfully charged in accordance with the provisions of this Act by a creditor for or on account of costs, charges, or expenses, but save as aforesaid,

includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a creditor in consideration of or otherwise in respect of a loan;

(7) "loan" means an advance of money or in kind at interest, being for a sum, or being of a value, of less than five hundred rupees at a time in any one transaction, and includes any transaction which the Court finds in substance to amount to such an advance but does not include--

(i) a deposit of money or other property in a Government Post Office Savings Bank, or in a bank, in a company or with a co-operative society;

(ii) an advance made by a bank, a company or a co-operative society;

(iii) an advance made by Government or by any person authorised by government to make advances in their behalf, or by any local authority;

(iv) an advance made by any person bona fide carrying on any business, not having for its primary object the lending of money, if such loan is advanced in the regular course of such business;

(v) an advance made by a landlord to his tenant, by a lessor to his lessee, by one partner in cultivation or co-sharer to another for the purpose of carrying on agriculture;

(vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note;

4[xxx]

4[xxx]

4[(8) "Prescribed" means prescribed by rules made under this Act, and

4[(9) "principal" means in relation to a loan the amount actually lent to the debtor.

1. Certain words Omitted A.O. 1950.

2. Short title subs by A.P. Act IX of 1961.

3. The words "Including a pawnbroker Omitted by Act No. 23 of 1943.

4. The Original clauses (7) & (8) Omitted and the existing clauses (9) & (10) renumbered as clauses 8 and 9 respectively by Act 23 of 1943.

3. Duty Of Creditor To Maintain Accounts And To Give Receipts :-

(1) Every creditor shall--

(a) regularly record and maintain or cause to be recorded and maintained, an account showing for each debtor separately--

(i) the date of the loan, the amount of the principal of the loan, and the rate percent per annum of interest charged on the loan; and

(ii) the amount of every payment received by the creditor in respect of the loan, and the date of such payment;

(b) give to the debtor or his agent, receipt for every sum paid by him, duly signed and if necessary, stamped at the time of such payment; and

(c) on requisition in writing made by the debtor, furnish to the debtor or, if he so requires, to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent showing the particulars referred to in clause (a) and also the amount which remains outstanding on account of the principal and of interest and charge such sum as the State Government may prescribe as fee therefor.

(2) Not with standing anything contained in the Indian Evidence Act, 1872, a copy of the account referred to in clause (a) of sub-section (1) certified in such manner as may be prescribed, shall be admissible in evidence in the same manner and to the same extent as the original account.

(3) A person to whom a statement of account has been furnished under clause (c) of sub-section (1) and who fails to object to the correctness of the account shall not by such failure alone be deemed to have admitted the correctness of such account.

4. Section 4 :-

1[xxx]

1. Section 4 omitted by Act 33 of 1943.

5. Figures In Accounts And Receipts To Be In Arabic Numerals :-

In the receipt to be given under clause (b) of sub-section (1) of section 3, [and] in the statement of account to be furnished under clause (c) of that sub-section [xxx]¹ the figures shall be entered only in Arabic numerals.

1. Certain words omitted by *ibid*.

6. Penalty For Non-Compliance With Section 3 And 4 :-

(1) In any suit or proceeding relating to a loan, if the Court finds that a creditor has not maintained an account as required by clause (a) of sub-section (1) of section 3, 1[xxxx] he shall not be allowed his costs.

(2) If a creditor fails to give to the debtor or his agent a receipt as required by clause (b) of sub-section (1) of section 3 or to furnish, on a requisition made under clause (c) of that subsection, a statement of account as required therein within one month after such requisition has been made, 1[xxx] he shall not be entitled to any interest for the period of the default.

1. Certain words omitted by *ibid*.

6A. Section 6A :-

1[(1) If in any suit or proceeding relating to a loan advanced after the commencement of the A.P.(A.A.) Debtors Protection (Amendment) Act, 1935, it is found that the interest charged exceeds, in the case of a secured loan, nine percent per annum simple interest and in the case of an unsecured loan, fifteen percent per annum simple interest, the Court shall, until the contrary is proved, presume for the purposes of sections 3 and 4 of the Usurious Loans Act, 1918, that the interest charged is excessive and that the transaction was, as between the parties thereto substantially unfair.

Explanation: -- In the case of any loan so advanced, if compound interest is charged and the amount claimed by the creditor by way of such interest until the date of the institution of the suit or proceeding for the recovery of the loan exceeds the amount of simple interest calculated at the rate of nine percent per annum or fifteen percent per annum, as the case may be the Court shall draw the presumption referred to in this sub-section until the contrary is proved.

(2) The provisions contained in sub-section (1) shall be without prejudice to the power of the Court under sections 3 and 4 of the Usurious Loans Act, 1918, in cases where the Court has reason to believe that the interest charged, though not exceeding nine percent per annum simple interest, or fifteen percent per annum simple interest, as the case may be, is excessive and that the translation was, as between the parties thereto, substantially unfair]

1. Section 6-A inserted by Act 4 of 1936.

7. Savings :-

Nothing contained in this Act shall apply to any loan advanced before the commencement of this Act.

8. Rules :-

(1) The State Government may make rules not inconsistent with this Act for the purpose of carrying out all or any of its purposes.

(2) In particular and without prejudice to the generality of the foregoing power the State Government may make rules prescribing--

(a) the sum which may be charged as fee for a statement of account, furnished under clause (c) of sub-section (1) of section 3 and

(b) the manner in which a copy of the account shall be certified for the purpose of sub-section (2) of section [xxx]1

[(c) [xxx]2

1. The word " and " omitted by Act 7 of 1948.

2. Clause (C) omitted by ibid.

9. Savings :-

1[contained in this Act shall be deemed to apply to pawnbrokers, that is to say, to persons who carry on the business of taking goods and chattels in pawn for a loan.]

1. Section 9 added by Act 7 of 1948.