

RAJ BHAVAN

SUBJECT:	FILE NO.
	GS 15 GOB 2025 20

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Hon'ble Governor has ordered as below in the file;

"Perused the file;

State Government has submitted the Karnataka Micro Loan and Small Loan (Prevention of Coercive Actions) Ordinance, 2025 for approval. It is acknowledged that the Ordinance is trying to address the issue of harassment and to prevent unlawful and forceful actions of a few anti-social elements of the society. I have observed the following issues in the proposed ordinance;

1. The State Government in section 14 has intended to provide relief to the barrowers from harassment by unregistered and unlicensed Micro Finance Institutions by giving whole discharge from Every loan advance including interest as on the date of the Ordinance.

Further, it has also proposed that no civil court shall entertain any proceedings against the barrower for recovery of amount including interest.

Further, it has also proposed abetment of all pending proceedings in any court of law pending for recovery of loan.

No doubt, it is the duty of State to protect the vulnerable persons of the society. On the other hand, it is also necessary to protect the lawful and genuine rights of the persons who have lent to the needy person within existing laws with proper checks and balance mechanism.

If, all the pending loan with interest as on date is discharged, the lawful and genuine lenders may face trouble, further, they have no remedy to recover their pending amounts which may lead to legal battle.

Aa a set principal of natural justice, every person has a right to fight for his rights and legal remedies. Preventing any persons from fighting for his rights and legal remedies may lead to violation of fundamental rights provided under Article 19 & 32 of the Constitution of India.

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2. It is also seen that provision has been made for imposing penalty for contravention of section 8 of the Ordinance for punishment for a term which may extended to ten years and with a fine extending up to 5 lakh and offences under this ordinance are non-bailable.

When the maximum amount of loan that can be lent is Rs 3 lakhs, the proposed fine of Rs. 5 lakhs itself is against natural principles.

It is observed that the term of punishment proposed is also disproportionate compared to the provisions already available in other laws for similar offences. It is also against the principals of natural justice.

3. Provisions have also been made for the lending agencies not seek any security from the barrower and also to propose for the release of all securities already taken.

On plain reading of this provision, it seems to be against the principals of lending which are followed by Government Banks themselves, which will affect the business in long run and also effect the small barrowers in remote and non-available areas of bank lending facilities since, the proposed provisions has the ability to erode the goodwill and comradery in the society.

Further, the proposed ordinance may lead to negative impact on the business prospects of the State by affecting the Self-Help Groups which plays the biggest part in uplifting the lowest rung of the society. It may also lead to violation of Fundamental rights provided under Article 19 of the Constitution of India.

4. Importantly, this Ordinance will not apply to the to any banking or non-banking finance companies (NBFC) registered with RBI. Therefore, most of the lending agencies will be left out. This Ordinance will apply only to the unregistered and unlicensed lending agencies.

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It is important to note that these unregistered and unlicensed lenders who are genuine individuals with a conscience are usually the saving grace for those who are neglected by the traditional credit system, and can enable greater access to credit and help in the robust growth of the finance sector when wielded in the right manner.

As I know, to control the forceful and unlawful activities of these type harassment by the agencies, the State through its Police and concerned Departments have already got provisions under the Karnataka Money Lenders Act, 1961, Negotiable instruments Act, 1881, The Karnataka Debt Relief Act, 1976 and Indian Penal Code, including Karnataka Police Act to deal with.

By analysing the problem caused by these types of incidents, it is seen that the lack of implementation of the existing frameworks and the vacuum in policing has enabled such problems. Efficient implementation of existing frameworks by enforcement machinery could help regulate these problems in an efficient manner.

If there are no provisions for similar offences in other enactments, it would require to enact this Ordinance in the interest of affected people. In view of availability of remedies already exist in different Acts, it is better to enforce the existing provisions of the law to protect the barrowers from unlawful harassment from the agencies including with the help of RBI Guidelines.

5. Further, I have not found any proper advice with statistics or legal advice or explanation as to how far this ordinance will benefit in curbing these types of incidents in the file.
6. Moreover, this Ordinance will benefit the barrower section of the society, in the same time it will affect the lenders who are also part of the same society. Hence, this issue needs to be deliberated in detail in the State Legislature.

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Further, since, the budget session will commence in next month, instead of bringing an Ordinance in a hurry, I advise the State to deliberate this issue in detail and bring an effective enactment in the interest of the affected people and to protect their rights.

Hence, with my above observations and advise, return the file to State Government with a direction to re-submit along with clarifications."

--sd--

(Thaawarchand Gehlot)

Hence, the Government file is herewith returned, with a request to re-submit the file as directed by the Hon'ble Governor.


(R.Prabhushankar) 31/2/2025

Special Secretary to Governor

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Secretary to Government,
Department of Parliamentary Affairs &
Legislation.

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