

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:2651
ANSWERED ON:19.12.2003
LEGISLATION ON LENDER S LIABILITY
SUDARSANA E.M. NATCHIAPPAN

Will the Minister of FINANCE be pleased to state:

- (a) whether the Government has any proposal to enact legislation on lender`s liability;
- (b) if so, the details thereof indicating the present fair practices code for lender`s liability;
- (c) whether a case on the validity on the Securitisation Act, 2002 is pending before the Supreme Court; and
- (d) if so, the present status of the case?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI ANANDRAO VITHOBA ADSUL):

- (a) At present this is not under consideration.
- (b) RBI has issued guidelines on fair practices codes for lenders to all schedule commercialbanks/All India financial institutions which inter-alia include the following:
 - # Banks and Financial Institutions should acknowledge receipt of all loan applications. The acknowledgement slip should indicate the time frame within which loan applications up to Rs. Two lakh would be disposed off.
 - # Banks/Financial Institutions should verify the loan applications within a reasonable period of time if additional details/documents are required, they should immediately intimate the borrowers.
 - # If loan applications of small borrowers seeking loans up to Rs. Two lakh have been rejected by banks/FIs, they should convey in writing to the applicant the main reason/reasons which led to reaction of the application within the stipulated time.
 - # Banks/FIs should ensure that credit applications are properly assessed by borrowers. They should not use margin and security stipulation as a substitute for due diligence on creditworthiness of the borrower.
 - # Banks/FIs should convey to the borrower the credit limit along with the terms and keep on record the borrower`s acceptance of these terms and conditions.
 - # Post disbursement supervision by banks/FIs, particularly in respect of loans upto Rs. two lakh, should be constructive with a view to taking care of any lender-related genuine difficulty that the borrower may face.
 - # Before taking a decision to recall/accelerate payment or performance under the agreement or seeking additional securities, lenders should give notice to borrowers, as specified in the loan agreement or a reasonable period, if no such condition exist in the loan agreement.
 - # Banks/FIs should release all securities on receiving payment of loan or realization of loan subject to any legitimate right or lien for any other claim they may have against the borrower. Borrowers should be given notice if any right of set off is to be exercised, with full particulars about the remaining claims and the documents under which lenders are entitled to retain the securities till the claim is settled/paid.
- (c) Yes, Sir.
- (d) The case is being heard by a constitutional bench in the Supreme Court.