

THE KERALA CO-OPERATIVE LAWS (AMENDMENT) ACT, 2003

(Act 16 of 2004)

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**THE KERALA CO-OPERATIVE LAWS (AMENDMENT) ACT, 2003\***  
**(ACT 16 OF 2004)**

*An Act further to amend the Kerala Co-operative Societies Act, 1969 and the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984*

*Preamble* — WHEREAS it is expedient further to amend the Kerala Co-operative Societies Act, 1969 and the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984, for the purposes hereinafter appearing,

BE it enacted in the Fifty-fourth Year of the Republic of India as follows —

1 *Short title and commencement* — (1) This Act may be called the Kerala Co-operative Laws (Amendment) Act, 2003

(2) It shall come into force at once

2 *Amendment of Act 21 of 1969* — In the Kerala Co-operative Societies Act, 1969 (21 of 1969), after section 36, the following section shall be inserted, namely —

“36A *Charge on movable or immovable property of borrower by creating Gehan* — Notwithstanding anything contained in any other provisions of this Act charge on movable or immovable property of a borrower in favour of the State Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or a Primary Housing Society may be created by Gehan in respect of which the provisions of sections 10 to 15 (both inclusive) of the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984), as amended from time to time, shall apply with the modification of substituting the words “State Co-operative Bank or District Co-operative Banks”, “Primary Agricultural Credit Society or Primary Housing Society”, “Society” and “said Bank or Society”, respectively, for the words “Agricultural and Rural Development Bank”, “primary bank”, “bank” and “said banks” occurring in the said sections

*Explanation* — For the purposes of this section, Gehan means a special charge on movable or immovable property, in favour of the State Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or a Primary Housing Society by a mere declaration in writing by the borrower, for securing the payment of money advanced or to be advanced by way of loan, which will have all the characteristics of a valid mortgage ”

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\* Received the assent of the President on the 15th day of June, 2004 and published in the Kerala Gazette Extraordinary No 1316 dated 23rd June, 2004

3. *Amendment of Act 20 of 1984* —In the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984) in section 10, for sub-sections (4) and (5) the following sub-sections shall be substituted, namely —

“(4) Notwithstanding anything contained in the Registration Act, 1908 (Central Act 16 of 1908), or in any other law for the time being in force, it shall not be necessary to register any Gehan or mortgage or hypothecation created or executed in favour of the Agricultural and Rural Development Bank or a primary bank and the release deeds thereof executed by the said banks, provided the Agricultural and Rural Development Bank or the primary bank, as the case may be, sends, within such time and in such manner as may be prescribed, a copy of the declaration or instrument whereby the Gehan or mortgage or hypothecation has been created or executed for the purpose of securing repayment of the loan or, as the case may be, the release deed thereof, to the registering officer within the local limit of whose jurisdiction the whole or any part of the property to which the Gehan or mortgage or hypothecation, or, as the case may be, the release, relates is situated

(5) On receipt of the copy of the declaration or instrument or the release deed sent under sub-section (4), the registering officer shall file a copy or copies thereof, as the case may be, in Book No 1, referred to in section 51 of the Registration Act, 1908 (Central Act 16 of 1908), and thereupon such Gehan or mortgage or hypothecation or release deed shall be deemed, as the case may be, to create an interest or to extinguish the interest created, in the property to which the declaration, instrument or release deed relates and shall constitute notice thereof to any one dealing with the said property”