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PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

**DEBT CONCILIATION (AMENDMENT)
ACT, No. 29 OF 1999**

[Certified on 17th September , 1999]

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Debt Conciliation (Amendment) Act, No. 29 of 1999

[Certified on 17th September, 1999]

L. D. - O. 22/97.

AN ACT TO AMEND THE DEBT CONCILIATION ORDINANCE

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Debt Conciliation (Amendment) Act, No.29 of 1999. Short title.

2. Section 19A of the Debt Conciliation Ordinance (Chapter 81) (hereinafter referred to as the “principal enactment”) is hereby amended as follows :- Amendment of section 19A of the Debt Conciliation Ordinance (Chapter 81.)
 - (1) by the insertion immediately after subsection (1) of that section, of the following new subsection :-

“(1A) The Board shall not entertain any application by a debtor or creditor in respect of a debt purporting to be secured by any such transfer of immovable property as is a mortgage within the meaning of this Ordinance, unless that application is made within three years of the date of the notorially executed instrument, effecting such transfer :

Provided that nothing in this subsection shall be read or construed as preventing the Board from entertaining, after the period referred to in that subsection, an application by a debtor who is in possession of the Property transferred ; and
 - (2) by the substitution in subsection (2) of that section for the words and figures “subsection (1)” of the words and figures “subsection (1) or subsection (1A)”.

3. Section 19B of the principal enactment is hereby amended by the substitution for the words and figures “subsection (1) of that section” , of the words and figures “subsection (1) or subsection (1A) of that section”. Amendment of section 19B of the principal enactment.

Amendment of section 21A of the principal enactment.

4. Section 21A of the principal enactment is hereby amended as follows :-

(1) by the renumbering of that section as subsection (1) of that section

(2) in the renumbered subsection (1) of that section -

(a) by the repeal of all the words from “In any proceeding under this Ordinance” to “ the following matters :-” and the substitution therefor of the following :-

“In any proceedings under this Ordinance in regard to an application relating to a transfer or conditional transfer of immovable property, the Board shall, notwithstanding anything to the contrary in section 2 of the Prevention of Frauds Ordinance (Chapter 70), or sections 91 and 92 of the Evidence Ordinance (Chapter 14) and for the purpose of deciding whether or not such transfer or conditional transfer is in reality a mortgage, take into consideration all the circumstances of the case and in particular the following matters :-”;

(b) in paragraph (d) of that subsection by the substitution for the words “a legally enforceable agreement” of the words “any agreement in whatever form ; and

(3) by the addition of the end of that section of the following new subsection :-

“(2) The burden of adducing evidence to show that a transfer of immovable property is in reality a mortgage shall be on the transferor”.

Amendment of section 32 of the principal enactment.

5. Section 32 of the principal enactment is hereby amended in subsection (2) of that section, by the repeal of all the words from “ the Board shall dismiss the application” to “ may , if it is ”, and the substitution therefor of the following words “ the Board may, if it is”.

6. Section 33 of the principal enactment is hereby amended by the repeal of paragraph (b) of that section, and the substitution therefor of the following paragraph :-

Amendment of section 33 of the principal enactment.

“(b) a creditor shall be allowed, notwithstanding any thing to the contrary in any other law, as interest such sum as appears to the Board to be reasonable, having regard to all the circumstances of the case.”.

7. Section 39 of the principal enactment is hereby amended in paragraph (a) of subsection (2) of that section, by the substitution, for the words “may notwithstanding that the” of the words “shall, notwithstanding that the”.

Amendment of section 39 of the principal enactment.

8. Section 64 of the principal enactment is hereby amended as follows :-

Amendment of section 64 of the principal enactment.

- (1) by the substitution in the definition of “creditor”, for the words “a conditional transfer of immovable property”, of the words “a transfer or conditional transfer of immovable property”; and
- (2) by the substitution, in the definition of “mortgage”, for the words “any conditional transfer of such property” of the words “any transfer or conditional transfer of such property”.

9. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

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