

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

BILL

*to amend the Financial Institutions (Secured Transactions)
Act, 2016*

WHEREAS it is expedient to amend the Financial Institutions (Secured Transactions) Act, 2016 (XXXI of 2016), for the purposes hereinafter appearing;

1. **Short title and commencement.**—(1) This Bill shall be called the Financial Institutions (Secured Transactions) (Amendment) Bill 2020.

(2) It shall come into force at once.

2. **Amendment of section 1, Act XXXI of 2016.**—In the Financial Institutions (Secured Transactions) Act, 2016 (XXXI of 2016), hereinafter referred to as the said Act, in section 1, in sub-section (3), for the words “Federal Government” the word “Commission” shall be substituted.

3. **Amendments of section 2, Act XXXI of 2016.**—In the said Act, in section 2, in sub-section (1), —

(a) after clause (i), the following new clause shall be inserted, namely:-

“(ia) “acquisition security interest” means a security interest in tangible movable property which secures an obligation to pay any unpaid portion of the purchase price of that property, or other credit extended to enable the customer to acquire rights in the property to the extent that the credit is used for that purpose;”;

(b) in clause (ii), after the words “after-acquired”, the words “ and future” shall be inserted;

(c) in clause (ix), after the word “goods” the words “and products” shall be inserted;

(d) in clause (x), for the expression “clause (7) of sub-section (1) of section 2 of the Companies Ordinance, 1984 (XLVII of 1984)” the expression “clause (17) of sub-section (1) of section 2 of the Companies Act” shall be substituted;

(e) after clause (x), amended as aforesaid, the following new clauses shall be inserted, namely:-

“(xa) “Companies Act” means the Companies Act, 2017 (XIX of 2017);

(xb) "Commission" shall have the same meaning as assigned to it under clause (g) of sub-section (1) of section 2 of the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);

(f) for clause (xx), the following shall be substituted, namely:-

"(xx) "financing statement" means the prescribed form to be filed in the register for the purposes of perfecting one or more security interests;"

(g) clause (xxi) shall be omitted;

(h) in clause (xxii), for the expression "Companies Ordinance, 1984 (XLVII of 1984), the expression "Companies Act, 2017 (XIX of 2017)" shall be substituted;

(i) in clause (xxiii), for the expression "Companies Ordinance, 1984 (XLVII of 1984), the expression "Companies Act, 2017 (XIX of 2017)" shall be substituted;

(j) clauses (xxiv) and (xxxiii) shall be omitted;

(k) for clause (xxxv), the following shall be substituted, namely:—

"(xxxv) "possession of an electronic title document by a person" means the transfer of exclusive control of the electronic title document to that person in accordance with the procedures established by the system under which the electronic title document is issued;"

(l) in clause (xxxvi), the words "or regulations" shall be omitted;

(m) in clause (xxxvii), after the word and comma "exchange," the word "replacement" shall be inserted;

(n) in clause (xlili), in sub-clause (b), for the expression "Companies Ordinance, 1984 (XLVII of 1984), the expression "Companies Act, 2017 (XIX of 2017)" shall be substituted;

(o) for clause (xlvi), the following shall be substituted, namely:-

"(xlvi) "secured creditor" means a financial institution or a consortium of financial institutions in whose favour a security interest is created by the customer and in the case of a security interest

that is an absolute assignment of receivables, the secured creditor is the assignee;”;

(p) for clause (xlviii), the following shall be substituted, namely:—

“(xlviii) “security interest” means,—

(a) a right, title, encumbrance or interest of any kind upon movable property created or provided for by a security agreement in relation to a transaction that in substance secures the payment or performance of a customer’s obligation without regard to the form of the transaction or the terminology used by the parties or the identity of the person who has title to the movable property, and includes any charge, mortgage, hypothecation, fixed charge, floating charge, assignment, lien, pledge, assignment of receivables by way of security and transactions under which a secured creditor retains title such as a finance lease, hire purchase agreement, sale and lease back arrangement, conditional sale agreement and retention of title arrangement, having similar effect; and

(b) an absolute assignment of receivables;”;

(q) after clause (xlviii), substituted as aforesaid, the following new clause shall be inserted, namely:—

“(xlviiiia) “specified” means specified through regulations made by the Commission;” and

(r) for clause (li), the following shall be substituted, namely:—

“(li) “title document” means a document in writing evidencing title to goods which is, by law or custom, transferable by delivery (whether with or without endorsement) or control and includes a bill of lading, dock warrant, warehouse receipt, railway receipt, airway bill, truck receipts or similar record issued by a person in the business of transporting or storing goods;”.

4. **Amendment of section 5, Act XXXI of 2016.**—In the said Act, in section 5, in clause (b), for the word “pledge” the words “security interest that is perfected by possession of collateral” shall be substituted.

5. **Amendments of section 6, Act XXXI of 2016.**—In the said Act, in section 6,—

(a) in sub-section (2), for clauses (b) and (c), the following shall be substituted, namely:—

“(b) for all security interests other than an absolute assignment of receivables, the obligations secured by the security interest, in accordance with sub-section (3);

(c) a description of the collateral in accordance with sub-section (3); and”;

(b) after sub-section (2), amended as aforesaid, the following new sub-sections shall be added, namely:—

“(3) The obligations and the collateral may be described in the security agreement in a manner that reasonably allows their identification.

(4) A description of secured obligations that indicates that the security interest secures all obligations owed to the secured creditor at any time or that states a maximum amount satisfies the standard referred to in sub-section (3).

(5) A description of collateral that indicates that the collateral consists of all of the customer’s movable property, or of all the customer’s movable property within a generic category, satisfies the standard referred to in sub-section (3).”.

6. **Amendment of section 8, Act XXXI of 2016.**—In the said Act, in section 8, after the word “goods” wherever occurring, the words “and products” shall be inserted.

7. **Amendment of section 9, Act XXXI of 2016.**—In the said Act, in section 9, after the words “after-acquired”, wherever occurring, the words “ and future” shall be inserted.

8. **Amendment of section 10, Act XXXI of 2016.**—In the said Act, in section 10,—

(a) for the marginal heading “future finance” the marginal heading “Obligations that may be secured” shall be substituted;