

GUYANA

No. 17 of 1981

REGULATIONS

Made Under

THE CO-OPERATIVE FINANCIAL INSTITUTIONS ACT

(Cap. 75:01)

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTIONS 40 AND 60 OF THE CO-OPERATIVE FINANCIAL INSTITUTIONS ACT, I HEREBY MAKE THE FOLLOWING REGULATIONS:—

1. These Regulations may be cited as the Guyana Co-operative Mortgage Finance Bank (Charges on Property) Regulations 1981. Citation
2. An instrument creating a charge to secure a loan made by the Guyana Co-operative Mortgage Finance Bank (hereinafter referred to as "the Bank") shall be in the form and upon the terms and conditions set out in the First Schedule. Instrument  
of charge  
First  
Schedule
3. Upon repayment of the loan secured by a charge, the Bank for the purpose of determining the charge shall file with the Registrar of Deeds a certificate in the form set out in the Second Schedule. Certificate  
of satisfac-  
tion,  
Second  
Schedule
4. The fees to be taken by the Registrar of Deeds for filing every such charge or certificate shall be as set out in the Third Schedule and the stamp duty payable on every such charge shall be as specified in the Third Schedule. Fees and  
stamp duty  
Third  
Schedule

FIRST SCHEDULE

GUYANA  
COUNTY OF  
CHARGE

THIS CHARGE is made this day, the.....day  
of ..... 19..... Between .....  
.....  
of .....  
(hereinafter called the borrower) of the one part and the GUYANA  
CO-OPERATIVE MORTGAGE FINANCE BANK of lot 2 North  
Street, Lacytown, Georgetown (hereinafter called "the Bank") of the  
other part:

1. In consideration of the sum of .....  
.....dollars (hereinafter called "the loan")  
now advanced to the borrower by the Bank, the borrower hereby  
charges all the movable and/or immovable property particulars whereof  
are hereinafter set forth with the payment to the Bank of the loan of  
.....  
.....dollars together with interest thereon  
.....and the cost of realisation and en-  
forcement of this security.

2. The loan secured by this charge and the interest thereon at  
the rate of.....per cent per annum with monthly  
rests on the 25th day of each month, shall be repayable as follows —

On the failure to pay any instalment when it becomes due, the  
whole of the unpaid balance of the loan will become due and payable.

3. The Bank may at any time or times and from time to time  
during the continuance of this charge if and whenever the Bank in its  
absolute discretion shall consider it desirable raise or lower the rate of  
interest for the time being under this charge. Such increase or reduction

shall be effected by notice in writing served by the Bank on the borrower which shall state the increased or diminished rate of interest to be payable under this charge and such increased or diminished rate shall be payable as from the date specified in the notice, not being less than three months after the date of service of the notice. As from the date when any such increase or reduction takes effect as aforesaid the provisions relating to interest herein contained shall be read and have effect as referring to interest at the higher or lower rate specified in the said notice.

4. This charge shall, so long as it continues in force, confer the following rights and impose the following obligations on the Bank, that is to say —

Rights conferred and obligations imposed by a charge on the Bank.

- (a) a right to take possession of any of the property subject to this charge upon the happening of any of the following events, that is to say —
  - (i) if the borrower shall fail to pay the Bank any money which shall for the time being be owing under the charge within four days after the same or any instalment thereof shall become due; or
  - (ii) if the borrower shall fail to discharge any of the obligations imposed upon him by any provision of this charge; or
  - (iii) if the borrower shall become insolvent or make any arrangement or composition with his creditors; or
  - (iv) if any distress or execution be issued or levied against or upon any of the property of the borrower; or
  - (v) the death of the borrower; or
  - (vi) if the borrower does any act prohibited by the Act or the Guyana Co-operative Mortgage Finance Bank (Reconstitution) Order.
- (b) where possession of any property has been so taken, a right, after an interval of five clear days to sell the property either at auction or by private treaty and either for a lump sum payment or payment by instalments;
- (c) an obligation, in the event of such power of sale being exercised, to apply the proceeds of sale in or towards the discharge of the moneys and liabilities secured by this charge, and the cost of seizure and sale, and to pay the surplus (if any) of the proceeds to the borrower.

Obligations imposed by a charge on a borrower.

5. This charge shall, so long as it continues in force, impose on the borrower the following obligations, that is to say —

- (a) if required by the Bank to insure and keep insured, so long as this charge continues in force, the property subject to this charge for a sum of money not less than the value of the said property and to assign the policy of insurance to the Bank;
- (b) to keep in good and substantial repair and condition any buildings, erections, and other property subject to this charge;
- (c) not to sell or again encumber or charge any property subject to this charge, so long as this charge continues;
- (d) to pay punctually as the same shall become due and payable any land rent, rate or tax payable by him in respect of the land on which the property stands and upon demand in writing by the Bank to produce his last receipts for such rent, rate or tax;
- (e) not to have execution issued against his goods under any judgment at law;
- (f) not to remove, dismantle or in any way alter any buildings, erections, or other property subject to this charge without the prior consent in writing of the Bank.

Penalty for sale of security.

6. Every person who sells any property subject to this charge shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months.

Charge not to be defeated by sale, etc. of property subject to it.

7. This charge shall not be liable to be defeated by any sale of, or by a subsequent charge of any nature created upon, the property specified herein and, upon the borrower committing an act of insolvency the Bank shall be at liberty to take possession of the property subject to this charge and sell the same in accordance with paragraph 4 (b) of this charge.

Charge not to be affected by Bills of Sale Act, Cap. 90:12

8. This charge shall have effect notwithstanding anything contained in the Bills of Sale Act, and this charge shall not be deemed to be a bill of sale within the meaning of that Act.

Property charged not divisible among creditors in insolvency.

9. So long as this charge continues in force, property subject to this charge shall not be property divisible amongst the borrower's creditors in case of his insolvency as being at the commencement of the insolvency in the possession, order or disposition of the insolvent in his trade or business by the consent and permission of the Bank, except that any surplus after the proceeds of sale of such property have

been applied in or towards the discharge of the moneys and liabilities secured by the charge shall be payable by the Bank to the borrower's assignee in insolvency.

10. This charge shall be signed by the borrower and attested by two witnesses, if the borrower can read and write the English language and in the case of a borrower who cannot read and write the English language, the instrument shall be made by affixing the borrower's mark thereto in the presence of two witnesses or a notary public, a magistrate, a justice of the peace or a police officer, who shall attest the same after reading over and explaining the contents thereof to the borrower.

Mode of executing instrument creating charge.

11. This charge shall be signed also by an officer duly authorised by the Bank and shall be filed by the Bank with the Registrar of Deeds appointed under the Deeds Registry Act, and this charge takes effect as from the moment when it is so filed. Where the property which is subject to this charge includes immovable property the Registrar shall forthwith publish in the **Official Gazette** a notice to the effect that he intends to annotate and register the charge on the document of title to the land, if any, and on the expiration of fourteen days after such publication this charge shall have the like effect as if it were a mortgage passed under the Deeds Registry Act.

Filing of instrument in Deeds Registry. Cap. 5:01

Cap. 5:01

12. This charge shall be accepted and filed by the Registrar of Deeds upon a certificate thereon by one of the witnesses to the signature of the borrower, or by the person or one of the persons in whose presence the borrower made his mark, to the effect that he knows the borrower and that the charge was read over and explained by him to the borrower who appeared perfectly to understand the same and signed it or made his mark thereto.

Registrar to file instrument or certificate of witness, etc.

13. Every person who makes a false certificate for the purpose of the last preceding paragraph shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Penalty for false certificate

14. (1) No person shall offer to the Bank as security for the loan made hereunder any property which is not his own, and every person shall on application for the loan disclose to the Bank the existence of any charge on the property offered as such security.

Penalty for fraudulent offer of security

(2) Every person who contravenes this provision shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

#### DESCRIPTION OF PROPERTY SUBJECT TO THIS CHARGE

IN WITNESS WHEREOF the parties have signed this charge at  
.....in the County of.....  
in the Republic of Guyana in the presence of the following witnesses.

Witnesses.

**Borrower,**

1.....

**Guyana Co-operative Mortgage  
Finance Bank**

2.....

**General Manager/Director.**

**Secretary.**

**CERTIFICATE BY WITNESS**

I hereby certify that I am one of the above witnesses and I know  
..... and aw  
..... affix..... signature on this charge.  
The charge was read over and explained by me to the borrower the said  
..... who appeared perfectly to under-  
stand it.

**CERTIFICATE BY WITNESS**

I/We hereby certify that I/we know.....  
and saw..... make..... mark on this charge. The  
charge was read over and explained in my/our presence to the borrower  
the said.....  
who appeared perfectly to understand it.

GUYANA

COUNTY OF.....

By

To and in favour of

GUYANA CO-OPERATIVE MORTGAGE FINANCE BANK

**CHARGE**

**SECOND SCHEDULE**

**CERTIFICATE OF SATISFACTION**

reg. 3

We hereby certify that the loan secured by the Charge (a copy whereof is annexed) has been fully repaid and satisfied.

Secretary,  
Guyana Co-operative Mortgage  
Finance Bank.

**THIRD SCHEDULE**

reg 4

(Fees and Stamp Duty payable on Instrument of Charge)

- 1. Filing every instrument of charge ..... \$1.00
- 2. Issuing certified copy of every instrument of charge .10
- 3. Stamp duty on every instrument of charge ..... .25
- 4. Filing certificate of satisfaction ..... \$1.00

Made this 7th day of July 1981.

*H. D. Hoyte*  
Vice-President,  
Economic Planning and Finance