

SARFAESI ACT 2002



OBJECTIVE

The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) allows banks and other financial institution to auction residential or commercial properties to recover loans, when borrowers fail to repay the loan.

It enables banks to reduce their non-performing assets by adopting measures for recovery or reconstruction.

APPLICABILITY

The law does not apply to:

- Unsecured Loans
- Loans below ₹100,000
- Amount remaining is less than 20% of the principal and interest
- The Security to be enforced is an agricultural land

PROCESS

Borrower pledges an **ASSET** to avail **FINANCIAL ASSISTANCE**

Borrower **FAILS TO REPAY**, and it is classified as **NPA** (overdue by 90 days or more)

Bank is empowered to:

- To issue demand notice calling upon them to discharge their dues in full within 60 days from the date of the notice.
- To give notice to any person who has acquired any of the secured assets from the borrower to surrender the same to the Bank.
- To ask any debtor of the borrower to pay any sum due or becoming due to the borrower.

Borrower **FAILS TO COMPLY WITH THE NOTICE**

Bank may take recourse to one or more of the following measures:

- Take **POSSESSION** of the security
- **SALE** or lease or assign the right over the security
- **MANAGE** the same or appoint any person to manage the same

The Act also provides for sale of financial assets by banks and financial institutions to asset reconstruction companies.

Rights of Borrower:

- 60-day demand notice
- In order to sell, the bank has to serve another 30-day public notice mentioning details of the sale.
- Disclosure of fair value of the asset. If the borrower feels the value of the asset is undervalued, he can contest the current auction
- Excess amount after recovery of the dues