

[AS INTRODUCED IN THE SENATE]

**A
BILL**

*further to amend the Financial Institutions (Recovery of Finances)
Ordinance, 2001*

WHEREAS it is expedient further to amend the Financial Institutions (Recovery of Finances) Ordinance, 2001 (XLVI of 2001), for the purposes hereinafter appearing;

It is hereby enacted as follows: -

1. Short title, extent and commencement. – (1) This Act may be called the Financial Institutions (Recovery of Finances) (Amendment) Act, 2014.

(2) It shall extend to the whole of Pakistan.

(3) It shall come into force at once.

2. Omission of section 15, Ordinance No. XLVI of 2001. – In the Financial Institutions (Recovery of Finances) Ordinance, 2001 (XLVI of 2001), hereinafter referred to as the said Ordinance, section 15 shall be omitted.

3. Amendment of section 19, Ordinance No. XLVI of 2001. – In the said Ordinance, in section 19, sub-section (5), shall be omitted.

STATEMENT OF OBJECTS AND REASONS

A Constitutional Petition was filed before the High Court of Balochistan and the Lahore High Court calling into question the vires and the constitutionality of section 15 of the Ordinance of 2001, inter-alia, on the ground that it offended against Articles 4 and 175 of the Constitution, 1973. The Constitutional Petition before the High Court of Balochistan, was dismissed vide Judgment dated 16-06-2005, announced on 27-07-2005 reported as Sh. Abdul Sattar Lassi Vs. Federation of Pakistan, whereby section 15 of the Ordinance, 2001 was held to be intra-vires to the Constitution, 1973.

Various Constitutional Petitions were filed in the Lahore High Court on the same question, they were disposed off vide Judgment dated 23-12-2008, wherein section 15 of the Ordinance, 2001 was held to be unconstitutional being violative of Articles 2A, 3, 4, 9, 23, 24, 25 and 175 of the Constitution, 1973 and found to be suffering from variety of legal infirmities.

The aforesaid two Judgments were challenged before the Supreme Court of Pakistan, through Civil Petitions for leave to Appeal, which were allowed and leave was granted. Civil Appeal No.99/2009 was directed against the Judgment of High Court of Balochistan, while the remaining Civil Appeals filed by different Financial Institutions were directed against the Judgment of the Lahore High Court.

The Civil Appeal No.99/2009 was withdrawn on 23-04-2013, as the parties had entered into a settlement outside the Court. The other Civil Appeals No.146, 204 to 254, 289 to 303, 505 to 534, 1147 and 1148/2009, 690/2010 and 391-L to 2408-L/2009, were disposed off by a Judgment of a three member Bench of the Supreme Court of Pakistan vide Judgment dated 10-12-2013. In which it was held that the provisions of section 15 of the Financial Institutions (Recovery of Finances) Ordinance, 2001, are held to be ultra vires of the Constitution of the Islamic Republic of Pakistan, 1973.

This Bill is brought to give effect to the aforesaid Judgment of the Supreme Court of Pakistan.

SENATOR MIAN RAZA RABBANI
Member-in-charge