

LAW OF GEORGIA
ON MICROFINANCE ORGANIZATIONS

Article 1 - Purpose of the Law

The purpose of this Law is the legal regulation of the activities of microfinance organizations, and the creation of a healthy environment for their development.

Article 2 - Definition of terms used in this Law

1. The terms used in this law shall have the following meaning:
 - a) Micro leasing - leasing whose value is defined by an established limit of a micro credit;
 - b) Registration - voluntary registration at the National Bank of Georgia of a legal entity created in accordance with the legislation of Georgia; *(10.03.2017. N442)*
 - c) *(deleted); (24.09.2009 N 1682 for entry into force on 1 December 2009)*
 - d) Significant share - more than 10 per of declared or paid-in capital or/and shares with voting rights of a microfinance organization, which is owned through direct or indirect participation by a person or group of jointly acting partners/shareholders, or the ability of a person or partners/group of shareholders acting jointly to exercise significant influence over the microfinance organization, despite the number of shares in the capital or/and in shares with voting rights; *(23.12.2017. N1899)*.
 - e) Administrator of a microfinance organization - a member of the supervisory board, or directorate (board of directors) of a microfinance organization, as well as a person Authorized to enter into commitments singly or together with one or more persons on behalf of the microfinance organization; *(23.12.2017. N1899)*
 - f) Beneficial owner – a person receiving financial or other benefits under the law or an agreement, and who has no obligation to transfer these benefits to another person; and if a beneficial owner is an entity established to achieve best objectives, or if an owner is a legal person that has no person who owns a significant interest, a beneficial owner is a member of the management body; *(23.12.2017. N1899)*
 - g) Group of jointly acting partners/shareholders – a group of closely related (heirs of the first and second category) partners/shareholders, or partners/shareholders connected to each other by commercial interests in addition to the interests of the microfinance organization; *(23.12.2017. N1899)*
 - h) Regulatory capital – a type of capital created by a microfinance organization for conducting microfinance activities, for reserving against expected or unexpected financial loss/damages and protecting from different risks; *(23.12.2017. N1899)*
 - i) Authorized capital – a capital agreed upon by partners/shareholders of a microfinance organization and provided for by the charter; *(23.12.2017. N1899)*
 - j) Paid-in capital – the actually paid-in portion of the Authorized capital; *(23.12.2017. N1899)*

k) Persons connected to a microfinance organization – administrators, partners/shareholders of a microfinance organization, and their relatives who represent first and second legal heirs under the Civil Code of Georgia, or persons related to them by business interests. *(23.12.2017. N1899)*

2. Other terms used herein have the meanings that are defined by the legislative acts of Georgia.

Article 3 - Microfinance organization

1. A microfinance organization is a legal entity founded in the organizational and legal form of a limited liability or a joint-stock company, which, on the basis of its application, is registered by the National Bank of Georgia, and which performs activities established by this Law under the supervision of the National Bank of Georgia. *(10.03.2017. N442)*

2. A microfinance organization is obliged to create a supervisory board, which shall be subject to the rules established by the Law of Georgia on Entrepreneurs with regard to supervisory boards of joint- stock companies.

3. Only a microfinance organization shall be entitled to use the term 'microfinance organization' or its abbreviation MFO in its corporate name, apart from the denomination established by the Law of Georgia on Entrepreneurs.

4. If, as a result of inspection, the National Bank of Georgia determines that a microfinance organization has breached the norms established by laws of Georgia, the National Bank of Georgia shall impose sanctions in accordance with the procedures established by the Financial Supervisory Agency of Georgia. *(23.12.2017. N1899)*

Article 4 - Microfinance activities

1. A microfinance organization shall be entitled to perform the following activities only:

a) issue micro loans, including consumer, pawn, mortgage, unsecured, group or other loans (credits), to legal and natural persons, and issue credit payment cards for such purpose; *(06.03.2013. N263)*

b) invest in state and public securities;

c) carry out money remittance services;

d) fulfill the function of an insurance agent;

e) provide consultation services related to micro crediting;

f) obtain loans (credits) from resident and non-resident legal and natural persons;

f¹) fulfill functions of an agent determined by Paragraph z⁸, Article 2 of the Law of Georgia on Payment Systems and Payment Services; *(23.12.2017. N1899)*

f²) lease property to carry out activities envisaged by subparagraphs a- f¹ of this paragraph; *(23.12.2017. N1899)*

g) hold in ownership shares in an Authorized capital of legal persons, the total amount of which does not exceed 15% of the Authorized capital of such microfinance organization;

h) provide other financial services and operations determined by the legislation of Georgia: micro leasing, factoring, currency exchange, conclusion of derivatives, issuance, sale and redemption of bonds and bills of exchange, and other operations related to such financial services and operations. *(06.03.2013. N263)*

2. A microfinance organization shall be entitled to perform the activities stipulated in this Law only after it is registered as a microfinance organization by the National Bank of Georgia, the procedures and conditions of which shall be established by the National Bank of Georgia. *(10.03.2017. N442)*

2¹. A microfinance organization shall be entitled to perform the functions of an insurance agent referred to in paragraph 1(d) of this article, in accordance with the procedures established by the Legal Entity under Public Law called the Insurance State Supervision Service of Georgia. (20.03.2013. N356 for entry into force on 15 April 2013).

3. A microfinance organization shall be prohibited from receiving deposits from natural and legal persons.

4. The National Bank of Georgia may establish the rule of providing necessary information to clients by a microfinance organization when rendering its services. *(23.12.2017. N1899)*

5. The National Bank of Georgia may, in the form of written instructions, set forth additional requirements or/and limits to a micro finance organization for carrying out specific activities *(23.12.2017. N1899)*

Article 5 - The concept and the amount of a micro credit

1. A micro credit is an amount of money issued by a microfinance organization to a borrower or a group of borrowers on conditions of maturity, repayment, valuation and purpose of the credit as provided for by the credit agreement.

2. The maximum total amount of a micro credit issued by a microfinance organization to a single borrower shall not exceed GEL 100 000 (hundred thousand). *(23.12.2017. N1899)*

Article 6 - Authorized capital of a microfinance organization

1. In order for a person to be registered as a microfinance organization, the minimum amount of its paid-in capital shall be at least 1 000 000 (million) GEL. The paid-in capital shall be paid in cash.

2. A micro finance organization is obliged to maintain the minimal amount of the paid-in capital established by paragraph 1 of this Article throughout the whole period of its activity.

3. The capital of a company may be increased in a monetary form.

4. The National Bank of Georgia shall determine the amount and the rule of formation of regulatory capital of a microfinance organization by the legal act of The National Bank of Georgia.

Article 7 - Criteria of suitability

1. A director (a member of the board of directors) of a microfinance organization may not simultaneously be a partner (shareholder), a member of the supervisory board and/or board of directors of any commercial bank, non-bank depository institution – a credit union, or other microfinance organization.

2. A person shall be prohibited from being a director of a microfinance organization, if: *(23.12.2017. N1899)*

a) he/she has participated in an operation which caused significant damage to a commercial bank, non-bank depository institution - a credit union, or to any other microfinance organization, or has violated the rights of the depositaries of a commercial bank or a non-bank depository institution - a credit union, or of other creditors, or has led to the insolvency or bankruptcy of a commercial bank, or a non-bank depository institution - a credit union, or any other microfinance organization;

b) he/she was an administrator of a commercial bank, credit union or other microfinance organization in the past, and as a result of his/her activities such commercial bank, credit union or microfinance organization became insolvent;

c) he/she failed to fulfill financial liabilities towards any commercial bank, credit union or any other microfinance organization;

d) he/she has been convicted of committing grave or especially grave crimes, terrorism financing and/or legalization of illicit income, or other economic crimes;

e) he/she has no appropriate education and/or experience.

3. A director of a microfinance organization shall be prohibited from participating in a decision-making process on matters in which he/she has a private interest. *(23.12.2017. N1899)*

4. A person shall be prohibited from holding a significant portion of shares in a microfinance organization if he/she has been convicted of committing grave or especially grave crimes, terrorism financing and/or legalization of illicit income, or other economic crimes. *(23.12.2017. N1899)*

4¹. A person shall be prohibited from being an administrator of a microfinance organization, holding a significant share or being a beneficial owner, if The National Bank of Georgia has information that the person carries out illegal activities or/and unhealthy and/or harmful entrepreneurial practice. *(23.12.2017. N1899)*

5. A person who intends to buy a significant portion of shares in a microfinance organization is obliged to submit to the National Bank of Georgia an application and documents with regard to the compliance with the requirements set out in paragraph 4 of this article. *(23.12.2017. N1899)*

6. The National Bank of Georgia shall review the application within 15 calendar days after its submission, and shall either give consent or a reasoned refusal to the interested person with regard to the implementation of the relevant operation. *(10.03.2017. N442)*

7. If the National Bank of Georgia fails to respond to the interested person within 15 calendar days after the submission of the application, consent to the implementation of the respective operation shall be deemed to have been given. *(10.03.2017. N442)*

8. A transaction on purchasing a significant portion of shares in a microfinance organization shall be void, if an interested person fails to submit an application to the National Bank of Georgia, or if he/she has received a reasoned refusal from the National Bank of Georgia in relation thereto, and, notwithstanding said refusal, has purchased a significant portion of shares in a microfinance organization. *(10.03.2017. N442)*

9. Additional criteria of suitability of an administrator of a microfinance organization may be determined under normative acts of the National Bank of Georgia *(23.12.2017. N1899)*

Article 8 - Auditing, accounting and financial statements

1. A microfinance organization is obliged to:

- a) provide transparent financial and tax accounting and follow the principle of publicity;
- b) develop and implement a system and procedures for internal control;
- c) carry out an external audit annually and perform auditing in accordance with the legislation of Georgia;
- d) provide transparent financial and tax accounting, be responsible for the authenticity of the statements, and for the completeness of the information and statements submitted, follow the principle of publicity; Submit financial statements to the National Bank of Georgia. The form and term of submission shall be established by a normative act of the National Bank of Georgia. *(23.12.2017. N1899)*
- e) present financial statements to the National Bank of Georgia. The form and term of submission shall be established by a normative act of the National Bank of Georgia. *(10.03.2017. N442)*
- f) be responsible for the authenticity of the statements, and for the completeness of the information and statements submitted;
- g) From the end of each calendar year until 15 June of the following year, on its web site, publish an audited financial statement, prepared in accordance with the International Financial Reporting Standards set by the International Accounting Standards Board (IFRS) and audited in accordance with International Standards of Audit established by the International Auditing and Assurance Standards Board (IAASB) at International Federation of Accountants. *(23.12.2017. N1899)*

2. If a microfinance organization fails twice in succession to present financial statements established by this article to the National Bank of Georgia in accordance with the form and periodicity stipulated therein, the National Bank of Georgia shall be entitled to cancel the registration of the microfinance organization.

3. A microfinance organization shall keep the following documentation for a period of six years:

- a) account books, inventory sheet, balance sheet, as well as their explanatory instructions, and other organizational documents;
- b) accounting documents which confirm the entries in the accounting book.

Article 9 - Terms and conditions for disbursing micro loans

1. A microfinance organization and a borrower shall enter a written credit agreement on the disbursement of a micro loan in accordance with this Law and the Civil Code of Georgia.
2. The loan stipulated by this article may be a group or an individual loan, which may be secured or non-secured. The terms and conditions for the disbursement of a micro loan shall be established by a microfinance organization.
3. Interest rates, commission fees and service fees shall be established by a microfinance organization.
4. A microfinance organization has the right to exercise control over the purposeful use of the loan by a borrower, and the borrower is obliged to provide the microfinance organization with the opportunity to perform such control. If the borrower fails to fulfill the obligation to use the credit purposefully, the microfinance organization shall have the right to refuse to fulfill the terms of agreement with regard to the disbursement of the portion of credit that has not been disbursed, and to demand the premature repayment of the portion of the credit that has already been disbursed.
5. The National Bank of Georgia shall be entitled to set the conditions and the maximum prepayment commission fees for microfinance organizations in the case of re-financing, or the prepayment from own resources of micro credits disbursed by such microfinance organizations.

Article 9¹– Violations and sanctions (23.12.2017. N1899)

1. The National Bank of Georgia is entitled to impose sanctions on the administrator of a microfinance organization set forth by Paragraph 2 of this Article, if the microfinance organization or the administrator of the microfinance organization:
 - a) Violates any regulation stipulated by this law or any regulation, rule, decree, order or written instruction or restriction determined by the National Bank of Georgia;
 - b) Violates any regulation or restriction attached to the registration of the microfinance organization and corresponding decree of the National Bank of Georgia;
 - c) Violates the statement deadline or submits incorrect statement or inaccurate information;
 - d) Violates *Law of Georgia on Facilitating the Suppression of Money Laundering and Terrorism Financing* or/and regulations of normative acts adopted on the bases of that Law.
 - e) Violates the requirements stipulated by laws of Georgia on the issuance of loans or/and raising funds;
 - f) Has exercised or exercises unhealthy or harmful entrepreneurial activities.
2. In case the National Bank of Georgia detects a violation determined in paragraph 1 of this article, the National Bank of Georgia is entitled to apply the following sanctions sequentially, and in case of violation

or actual or possible risk, based on the nature of the risk, apply the following sanctions non-sequentially;

- a) give written warning to the microfinance organization;
- b) impose special measures or issue instructions requesting the microfinance organization to cease and not allow any violation and take necessary steps to eliminate the violation within the term determined by the National Bank of Georgia;
- e) impose monetary fine on the microfinance organization or the administrator of the microfinance organization in the manner and extent, the National Bank of Georgia deems appropriate;
- f) suspended signing authority to the administrator of the microfinance organization and request a temporary resignation or dismissal of the administrator from his/her position;
- g) terminate or limit the increase of assets, raising funds to the micro finance organization; Prohibit the distribution of profits, accruing and issuance of dividends, increasing of remuneration, bonuses and other similar types of compensation to a microfinance organization;
- h) suspend or limit certain types of operations;
- i) cancel the registration of a microfinance organization.

3. The amount of the monetary fine imposed under this article shall be referred to the State Budget of Georgia.

Article 10 - Confidentiality of information

1. A microfinance organization is obliged to protect the confidentiality of information. Such information may be submitted only to the tax authority on the basis of an agreement 'signed by the Government of the United States of America and the Government of Georgia for the improvement of the fulfillment of international tax obligations and for the fulfillment of foreign account tax compliance act (FATCA). (28.10.2015. N4465)

2. Information on borrowers existing in a microfinance organization may be submitted only to the borrowers, their representatives, the National Bank of Georgia, and also to the Financial Monitoring Service of Georgia in the cases provided for by the legislation of Georgia. Such information may be submitted to other persons only on the basis of a respective decision of a court or on the basis of a preliminary written agreement with a borrower. (23.12.2017. N1899)

[2. Information on borrowers (information about any transaction, performed operation, existing arrears and balances) existing in a microfinance organization may be submitted only to the parties of the transaction and their representatives, to the National Bank of Georgia, and also to the Financial Monitoring Service of Georgia in the cases provided for by the legislation of Georgia, and in case of inspection provided for by the Law of Georgia „On State Inspector Service” – to the State Inspector Service. Such information may be submitted to other persons only on the basis of a respective decision of a court or on the basis of a preliminary written agreement with a borrower.

(Shall become effective from July 1 2019)] (21.07.2018. N3295) (27.12.2018. N4249)

Judicial and investigative bodies, as well as tax services, shall be prohibited from giving information to other bodies, including to mass media, or to use such information publicly, before a court makes an appropriate decision thereon, except for the case referred to in paragraph 1 of this article, where such information has been submitted on the basis of an agreement 'signed by the Government of the United States of America and the Government of Georgia for the improvement of the fulfillment of international tax obligations and for the fulfillment of foreign account tax compliance act (FATCA). . (28.10.2015. N4465)

Article 10¹ – Liquidation of a microfinance organization

1. Along with the cancelation of a microfinance organization's registration, the liquidation of a microfinance organization takes place. Functions of a liquidator of a microfinance organization are carried out by the person appointed by the National Bank of Georgia. As soon as the liquidation process of the microfinance organization commences, compulsory enforcement is ceased.

2. A microfinance organization is liquidated according to the rule defined by a normative act of the National Bank of Georgia.

3. The liquidator of the microfinance organization is accountable to the National Bank of Georgia in accordance with the procedure established by the National Bank of Georgia.

The liquidator of the microfinance organization is entitled to sell the assets of microfinance organization at a public auction or to choose another form of their realization in agreement with the National Bank of Georgia, as well as to transfer the right to claim the above assets to the creditors according to the sequence, to transfer right to claim loans or other financial assets to the representative of financial sector organize the transfer of these obligations.

4. In case of transfer of assets and liabilities under paragraph 4 of this Article, the creditor and/ or the debtor do not declare a consent or refusal to transfer the asset or liability to another person within the term determined by the liquidator of the microfinance organization, the consent shall be deemed to be automatically granted.

5. The Liquidator has the right to initiate a dispute in Court against or claim cancellation of an activity or transaction carried out by the Administrator of the Microfinance Organization a year before the Liquidator's appointment as a result of which persons connected to the Microfinance Organization had any property gain at the Microfinance Organization's expense or any other benefit, privilege, advantage that caused damage to the Microfinance Organization or/and its creditors.

6. Till completion of the Liquidation Process the Bank shall be subject to the requirements of this Law and Organic Law of Georgia 'On the National Bank of Georgia'.

7. Upon completion of the Microfinance Organization Liquidation Process, the Administrative-legal Act of the National Bank of Georgia shall be submitted to a relevant registry office for registering the liquidation of the Microfinance Organization and removing it from corresponding Register. (23.12.2017. N1899)

Article 11 - Transitional provisions (11.07.2007 N5254)

1. In the case of the establishment of limited liability or joint stock companies by microfinance organizations registered under the status of a non- entrepreneurial legal entity before the entry into force of this Law, the Authorized bodies stipulated in the statutes of such microfinance organizations shall be entitled, at their discretion, to define the amount of the Authorized capital of limited liability or joint stock companies in accordance with Article 6 of this Law (or to define the nominal value of shares of joint stock companies).

2. When making a non-monetary contribution to the Authorized capital, microfinance organizations registered as non-entrepreneurial legal entities before the entry into force of this Law, shall conduct an audit of relevant assets before 30 November 2007.

3. The Authorized bodies stipulated in the statutes of microfinance organizations registered as non-entrepreneurial legal entities before the entry into force of this Law, shall have the right to alienate the shares (stocks) of companies established by such microfinance organizations, and to determine the procedures for their alienation.

4. The requirements established by Article 33(2) of the Civil Code of Georgia shall not apply until 31 December 2007 to microfinance organizations registered as non-entrepreneurial legal entities before the entry into force of this Law.

Article 12 - Final provision

This Law shall enter into force upon its promulgation.

President of Georgia

Mikheil Saakashvili

Tbilisi

18 July 2006

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