

By Senator Sobel

31-00372A-09

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1                   A bill to be entitled  
2           An act relating to the removal of discriminatory  
3           language in the criminal usury laws; amending s.  
4           687.071, F.S.; removing the term "shylocking" from  
5           certain provisions of state law relating to loan  
6           sharking; deleting the terms "shylock" and  
7           "shylocking" from the definitions of "loan shark" and  
8           "loan sharking," respectively; amending s. 772.102,  
9           F.S.; conforming a reference to changes made by the  
10          act; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14          Section 1. Section 687.071, Florida Statutes, is amended to  
15          read:

16          687.071 Criminal usury, loan sharking, ~~shylocking~~.

17          (1) DEFINITIONS.—The following words and phrases, as used  
18          in this section, shall have the following meanings:

19               (a) "Person" shall be construed to be defined as provided  
20               in s. 1.01.

21               (b) "Creditor" means any person who makes an extension of  
22               credit or any person claiming by, under, or through such person.

23               (c) "Debtor" means any person who receives an extension of  
24               credit or any person who guarantees the repayment of a loan of  
25               money for another person.

26               (d) "Extension of credit" means to make or renew a loan of  
27               money or any agreement for forbearance to enforce the collection  
28               of such loan.

29               (e) "Extortionate extension of credit" means any extension

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30 of credit whereby it is the understanding of the creditor and  
31 the debtor at the time an extension of credit is made that delay  
32 in making repayment or failure to make repayment could result in  
33 the use of violence or other criminal means to cause harm to the  
34 person, reputation, or property of any person.

35 (f) "Loan shark" ~~or "shylock"~~ means any person as defined  
36 herein who lends money unlawfully under subsection (2),  
37 subsection (3), or subsection (4).

38 (g) "Loan sharking" ~~or "shylocking"~~ means the act of any  
39 person as defined herein lending money unlawfully under  
40 subsection (2), subsection (3), or subsection (4).

41 (2) Unless otherwise specifically allowed by law, any  
42 person making an extension of credit to any person, who shall  
43 willfully and knowingly charge, take, or receive interest  
44 thereon at a rate exceeding 25 percent per annum but not in  
45 excess of 45 percent per annum, or the equivalent rate for a  
46 longer or shorter period of time, whether directly or  
47 indirectly, or conspires so to do, commits ~~shall be guilty of a~~  
48 misdemeanor of the second degree, punishable as provided in s.  
49 775.082 or s. 775.083.

50 (3) Unless otherwise specifically allowed by law, any  
51 person making an extension of credit to any person, who shall  
52 willfully and knowingly charge, take, or receive interest  
53 thereon at a rate exceeding 45 percent per annum or the  
54 equivalent rate for a longer or shorter period of time, whether  
55 directly or indirectly or conspire so to do, commits ~~shall be~~  
56 ~~guilty of~~ a felony of the third degree, punishable as provided  
57 in s. 775.082, s. 775.083, or s. 775.084.

58 (4) Any person who shall knowingly and willfully make an

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59 extortionate extension of credit to any person or conspire so to  
60 do commits ~~shall be guilty of~~ a felony of the second degree,  
61 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
62 In any prosecution under this subsection, evidence that the  
63 creditor then had a reputation in the debtor's community for the  
64 use or threat of use of violence or other criminal means to  
65 cause harm to the person, reputation, or property of any person  
66 to collect extensions of credit or to punish the nonrepayment  
67 thereof shall be admissible.

68 (5) Books of account or other documents recording  
69 extensions of credit in violation of subsections (3) or (4) are  
70 declared to be contraband, and any person, other than a public  
71 officer in the performance of his or her duty, and other than  
72 the person charged such usurious interest and person acting on  
73 his or her behalf, who shall knowingly and willfully possess or  
74 maintain such books of account or other documents, or conspire  
75 so to do, commits ~~shall be guilty of~~ a misdemeanor of the first  
76 degree, punishable as provided in s. 775.082 or s. 775.083.

77 (6) No person shall be excused from attending and  
78 testifying or producing any books, paper, or other document  
79 before any court upon any investigation, proceeding, or trial,  
80 for any violation of this section upon the ground or for the  
81 reason that the testimony or evidence, documentary or otherwise,  
82 required of the person may tend to convict him or her of a crime  
83 or subject the person to a penalty or forfeiture, but no person  
84 shall be prosecuted or subjected to any penalty or forfeiture  
85 for or on account of any transaction, matter, or thing  
86 concerning which he or she may so testify or produce evidence,  
87 documentary or otherwise, and no testimony so given or produced

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88 shall be received against the person upon any criminal  
89 investigation or proceeding.

90 (7) No extension of credit made in violation of any of the  
91 provisions of this section shall be an enforceable debt in the  
92 courts of this state.

93 Section 2. Paragraph (a) of subsection (2) of section  
94 772.102, Florida Statutes, is amended to read:

95 772.102 Definitions.—As used in this chapter, the term:

96 (2) "Unlawful debt" means any money or other thing of value  
97 constituting principal or interest of a debt that is legally  
98 unenforceable in this state in whole or in part because the debt  
99 was incurred or contracted:

100 (a) In violation of any one of the following provisions of  
101 law:

102 1. Section 550.235, s. 550.3551, or s. 550.3605, relating  
103 to dogracing and horseracing.

104 2. Chapter 550, relating to jai alai frontons.

105 3. Section 687.071, relating to criminal usury and, loan  
106 sharking, ~~and shylocking~~.

107 4. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
108 849.25, relating to gambling.

109 Section 3. This act shall take effect July 1, 2009.