

Senate Bill No. 318

An act relating to the removal of discriminatory language in the criminal usury laws; amending s. 687.071, F.S.; removing the term “shylocking” from certain provisions of state law relating to loan sharking; deleting the terms “shylock” and “shylocking” from the definitions of “loan shark” and “loan sharking,” respectively; amending s. 772.102, F.S.; conforming a reference to changes made by the act; providing an effective date.

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

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

687.071 Criminal usury, loan sharking; ~~shylocking~~.—

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

- (a) “Person” shall be construed to be defined as provided in s. 1.01.
- (b) “Creditor” means any person who makes an extension of credit or any person claiming by, under, or through such person.
- (c) “Debtor” means any person who receives an extension of credit or any person who guarantees the repayment of a loan of money for another person.
- (d) “Extension of credit” means to make or renew a loan of money or any agreement for forbearance to enforce the collection of such loan.
- (e) “Extortionate extension of credit” means any extension of credit whereby it is the understanding of the creditor and the debtor at the time an extension of credit is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.
- (f) “Loan shark” ~~or “shylock”~~ means any person as defined herein who lends money unlawfully under subsection (2), subsection (3), or subsection (4).
- (g) “Loan sharking” ~~or “shylocking”~~ means the act of any person as defined herein lending money unlawfully under subsection (2), subsection (3), or subsection (4).

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

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

(4) Any person who shall knowingly and willfully make an extortionate extension of credit to any person or conspire so to do ~~commits shall be guilty~~ of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In any prosecution under this subsection, evidence that the creditor then had a reputation in the debtor's community for the use or threat of use of violence or other criminal means to cause harm to the person, reputation, or property of any person to collect extensions of credit or to punish the nonrepayment thereof shall be admissible.

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

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

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

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

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

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

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

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

2. Chapter 550, relating to jai alai frontons.

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

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

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

Approved by the Governor April 27, 2009.

Filed in Office Secretary of State April 27, 2009.