



# CONSUMER NEWS

## SAN DIEGO CITY ATTORNEY'S OFFICE

### BEWARE OF LOAN SHARKS

October 2011

As our community grapples with the recent recession and dip in the stock market, many individuals and families struggle month-to-month to meet their financial obligations. Because of these financial difficulties, many people have seen their credit ratings drop to the point that they cannot qualify for a traditional loan. In the event of an emergency, these people become vulnerable to loan sharks, who offer misleading and highly exploitive loans to desperate borrowers.

This newsletter provides general information about the laws that govern loans and how to avoid becoming the victim of a loan shark.

#### *WHAT IS A LOAN SHARK?*

A loan shark is a person or business that offers short-term, unsecured loans at unlawfully high interest rates. The interest may accrue as often as weekly, resulting in exorbitant interest payments that may even exceed the amount of money originally borrowed.

Repayment of loans from loan sharks may sometimes be enforced by means such as blackmail and threats of violence.

Loan sharking is a felony punishable by up to five years in state prison, but can also be charged as a misdemeanor.

More recently, specialized "advance fee" lenders are offering "guaranteed" loans for an up-front fee to consumers who are especially desperate. These loans are scams. No legitimate lender would guarantee a loan to anyone without first looking at the borrower's financial background.

**Most importantly, there is no such thing as a legal loan shark.**

#### *REGULATIONS ON LOANS*

#### *INTEREST GENERALLY CANNOT EXCEED TEN PERCENT PER YEAR*

Under California law, the maximum legal charge on any loan of money for personal, family, or household purposes cannot exceed ten percent per year of the loan

amount. However, loans for the purchase, construction or improvement of real property have different limits than this ten percent cap.

There are other exceptions to the ten percent interest per year rule. Certain lenders, such as banks and credit unions, may legally charge interest rates higher than ten percent. Also, loans made by or arranged by licensed real estate brokers for loans secured by liens on real property, and cash advance businesses may exceed the ten percent cap.

These exceptions are not those that cover traditional loan sharks, who may be "friends of friends" who appear willing to "help" borrowers with a short-term loan, when in fact these loans often create more financial problems than they solve for borrowers.

#### *INFORMATION UP FRONT*

The Federal *Truth in Lending Act* requires certain information be given to borrowers prior to the

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finalizing of a loan. This information includes the dollar amount of the finance charge and the annual percentage rate. These disclosures must be provided in writing to the borrower before acceptance of the loan.

**LOAN SHARKING AGREEMENTS ARE VOID**

Loan sharks who charge borrowers more than the statutory maximum interest rate render the entire obligation of the borrower to pay interest null and void.

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***TIPS FOR CONSUMERS:***

- Remember, there is no such thing as a legal loan shark.
- Always check out any loan offers carefully, no matter how trustworthy the lender seems to be.
- Ask up front for the rate of interest on the loan.
- If the lender is charging more than the maximum legal rate, or you are not comfortable with the loan terms – **DO NOT TAKE OUT THE LOAN.**
- Do not accept a loan that charges interest at a rate other than yearly, such as weekly or monthly interest.
- Investigate the license or accreditation of the lender. This can often be done on-line.
- Always get information in writing, and avoid making repayments in cash unless you get a written receipt. Ignore any loan offer that requires an advance fee or “guarantees” a loan.
- Never provide your credit card, bank account or Social Security number over the phone, in writing, or via email unless you are

familiar with the lender, satisfied the lender is legitimate, and know why the information is necessary.

- Never allow someone to pressure you into taking out a loan.
- If you are having a difficult time paying your bills, contact your lenders to work out an alternative payment plan. Often times your lenders’ late fees or added charges are much less than what you would end up paying a loan shark for quick cash.
- Get advice from a neutral expert, like an accountant, attorney, or financial planner.
- Reevaluate your spending and savings habits to avoid being in the position of needing quick cash.
- If you have already taken out a loan from a loan shark and are being harassed or threatened in any way, contact your local police department. Keep track of any threats, including the language used, the date and time, and how the contact was made.

***CITY ATTORNEY’S ROLE***

The Consumer & Environmental Protection Unit of the San Diego City Attorney’s Office is equipped to prosecute individuals or businesses involved in loan sharking activities.

In one such case, the City Attorney’s Office prosecuted an individual who made short-term loans to borrowers at exorbitant rates, while holding title to their vehicles as collateral. The loan shark attempted to disguise the loans by labeling them as “sales-rental/ storage-buyback option

agreements.” One borrower was charged \$553 in “fees” for a fifteen day loan of \$500 – more than 100 times the maximum legal limit. After a jury trial the loan shark was convicted and sent to jail.

If you know of anyone who is engaging in the business of loan sharking or is a victim of loan sharking within the City of San Diego, call the City Attorney’s Consumer Hotline at (619) 533-5600.

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For more information on this topic, go to the U.S. Federal Trade Commission’s website at: [www.ftc.gov](http://www.ftc.gov) and type “loan shark” in the Search box.

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The information provided in this newsletter is intended to convey general information and is not intended to be relied upon as legal advice.