

943.245 Worthless checks; civil liability. (1) In this section, “pecuniary loss” means:

(a) All special damages, but not general damages, including, without limitation because of enumeration, the money equivalent of loss resulting from property taken, destroyed, broken or otherwise harmed and out-of-pocket losses, such as medical expenses; and

(b) Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of the offense under s. 943.24.

(1m) Except as provided in sub. (9), any person who incurs pecuniary loss, including any holder in due course of a check or order, may bring a civil action against any adult or emancipated minor who:

(a) Issued a check or order in violation of s. 943.24 or sub. (6); and

(b) Knew, should have known or recklessly disregarded the fact that the check or order was drawn on an account that did not exist, was drawn on an account with insufficient funds or was otherwise worthless.

(2) If the person who incurs the loss prevails, the judgment in the action shall grant monetary relief for all of the following:

(a) The face value of whatever checks or orders were involved.

(b) Any actual damages not covered under par. (a).

(c) 1. Exemplary damages of not more than 3 times the amount under pars. (a) and (b).

2. No additional proof is required for an award of exemplary damages under this paragraph.

(d) Notwithstanding the limitations of s. 799.25 or 814.04, all actual costs of the action, including reasonable attorney fees.

(3) Notwithstanding sub. (2) (c) and (d), the total amount awarded for exemplary damages and reasonable attorney fees may not exceed \$500 for each violation.

(3m) Any recovery under this section shall be reduced by the amount recovered as restitution for the same act under ss. 800.093 and 973.20 or as recompense under s. 969.13 (5) (a) for the same act and by any amount collected in connection with the act and paid to the plaintiff under a deferred prosecution agreement under s. 971.41.

NOTE: Sub. (3m) is shown as affected by 2 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).

(4) At least 20 days prior to commencing an action, as specified in s. 801.02, under this section, the plaintiff shall notify the defendant, by mail, of his or her intent to bring the action. Notice of nonpayment or dishonor shall be sent by the payee or holder of the check or order to the drawer by regular mail supported by an affidavit of service of mailing. The plaintiff shall mail the notice to the defendant’s last-known address or to the address provided on the check or order. If the defendant pays the check or order prior to the commencement of the action, he or she is not liable under this section.

(5) The plaintiff has the burden of proving by a preponderance of the evidence that a violation occurred under s. 943.24 or that he or she incurred a pecuniary loss as a result of the circumstances described in sub. (6). A conviction under s. 943.24 is not a condition precedent to bringing an action, obtaining a judgment or collecting that judgment under this section.

(6) (a) In this subsection, “past consideration” does not include work performed, for which a person is entitled to a payroll check.

(b) Whoever issues any check or other order for the payment of money given for a past consideration which, at the time of issuance, the person intends shall not be paid is liable under this section.

(7) A person is not criminally liable under s. 943.30 for any civil action brought in good faith under this section.

(8) Nothing in this section other than sub. (9) precludes a plaintiff from bringing the action under ch. 799 if the amount claimed is within the jurisdictional limits of s. 799.01 (1) (d).

(9) A person may not bring an action under this section after requesting that a criminal prosecution be deferred under s. 971.41 if the person against whom the action would be brought has complied with the terms of the deferred prosecution agreement.

History: 1985 a. 179; 1987 a. 398; 1989 a. 31; 1993 a. 71; 2003 a. 138; 2005 a. 447, 462; s. 13.93 (2) (c).

943.26 Removing or damaging encumbered real property. (1) Any mortgagor of real property or vendee under a land contract who, without the consent of the mortgagee or vendor, intentionally removes or damages the real property so as to substantially impair the mortgagee’s or vendor’s security is guilty of a Class A misdemeanor.

(2) If the security is impaired by more than \$1,000, the mortgagor or vendee is guilty of a Class I felony.

History: 1977 c. 173; 2001 a. 109.

943.27 Possession of records of certain usurious loans. Any person who knowingly possesses any writing representing or constituting a record of a charge of, contract for, receipt of or demand for a rate of interest or consideration exceeding \$20 upon \$100 for one year computed upon the declining principal balance of the loan, use or forbearance of money, goods or things in action or upon the loan, use or sale of credit is, if the rate is prohibited by a law other than this section, guilty of a Class I felony.

History: 1977 c. 173; 1979 c. 168; 2001 a. 109.

943.28 Loan sharking prohibited. (1) For the purposes of this section:

(a) To collect an extension of credit means to induce in any way any person to make repayment thereof.

(b) An extortionate extension of credit is any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time it 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.

(c) An extortionate means is any means which involves the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation or property of any person.

(2) Whoever makes any extortionate extension of credit, or conspires to do so, if one or more of the parties to the conspiracy does an act to effect its object, is guilty of a Class F felony.

(3) Whoever advances money or property, whether as a gift, as a loan, as an investment, pursuant to a partnership or profit-sharing agreement, or otherwise, for the purpose of making extortionate extensions of credit, is guilty of a Class F felony.

(4) Whoever knowingly participates in any way in the use of any extortionate means to collect or attempt to collect any extension of credit, or to punish any person for the nonrepayment thereof, is guilty of a Class F felony.

History: 1977 c. 173; 1995 a. 225; 2001 a. 109.

An extortionate extension of credit under sub. (1) (b) is not restricted to the original extension of credit, but includes renewals of loans. *State v. Green*, 208 Wis. 2d 290, 560 N.W.2d 295 (Ct. App. 1997), 96–0652.

943.30 Threats to injure or accuse of crime. (1) Whoever, either verbally or by any written or printed communication, maliciously threatens to accuse or accuses another of any crime or offense, or threatens or commits any injury to the person, property, business, profession, calling or trade, or the profits and income of any business, profession, calling or trade of another, with intent thereby to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do any act against the person’s will or omit to do any lawful act, is guilty of a Class H felony.