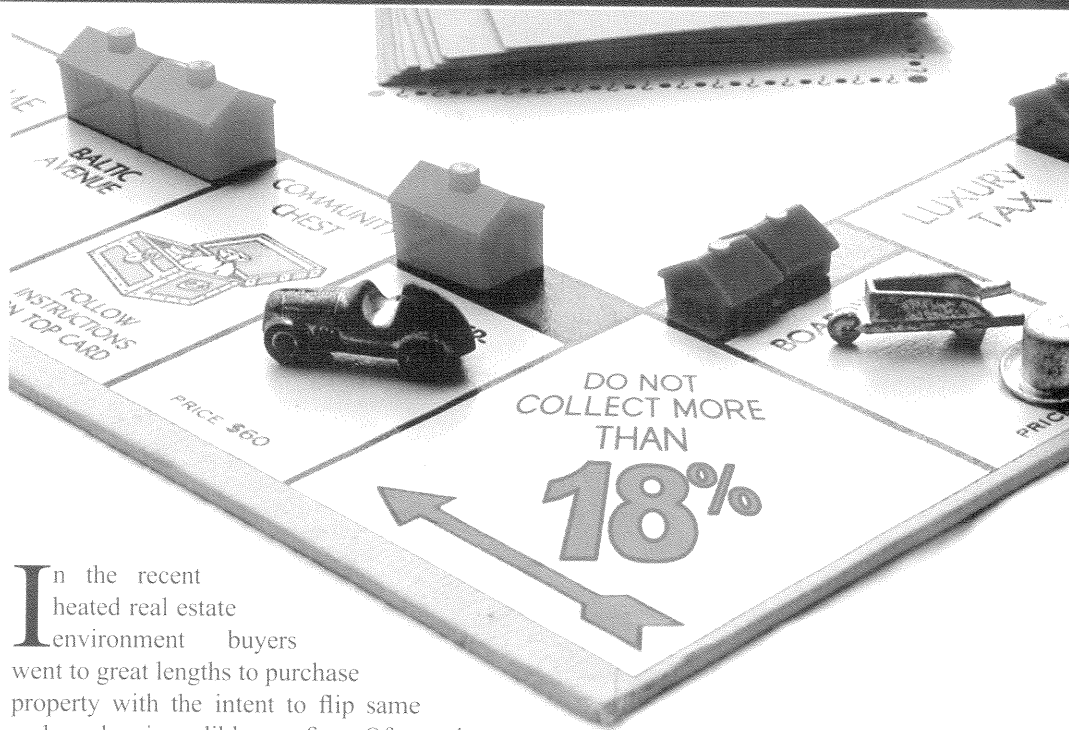


# REAL ESTATE LAW



## USURY: THE PITFALLS OF CHARGING TOO MUCH INTEREST



In the recent heated real estate environment buyers went to great lengths to purchase property with the intent to flip same and make incredible profits. Often, the speculators were over extended and needed additional funds from friends and family members. Loans were secured with promises of quick and exorbitant returns.

Many times promissory notes were prepared by the individuals without the aid of an attorney due to time constraints or merely to save money. A recent spat of these homespun promissory notes is now hitting the court system and with disastrous results to the lender.

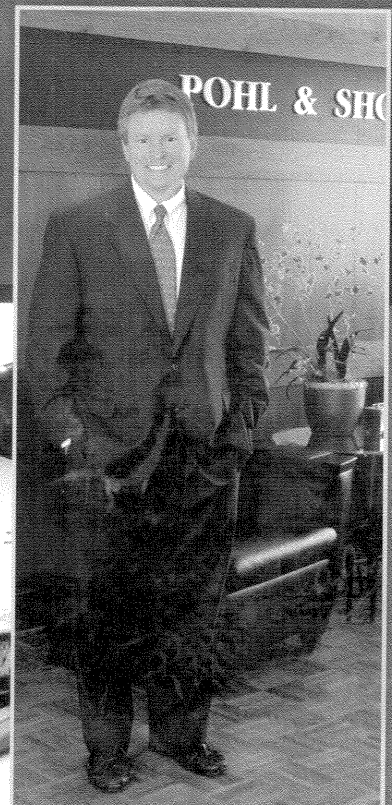
Private lenders must be aware of Florida Statutes governing usury. Pursuant to Florida Statute 687.03, it is unlawful for a person to collect or attempt to collect interest on any obligation at a higher rate of interest than the equivalent of 18% per annum simple interest.

Pursuant to Florida Statute 687.04, any person who charged and collected usurious interest shall forfeit double the amount of interest paid.

In other words, not only are you not to collect usurious interest pursuant to the statute, as a penalty you will be required to pay double the amount of interest that you have received.

In the event that the lender seeks to enforce a promissory note that is usurious a defense or counterclaim may be received based on usury. The only amount of money that may be recovered is the actual principal sum loaned. Further, the court may require that the principal be reduced by all interest paid pursuant to the statute.<sup>1</sup>

*If the interest that you have charged exceeds 25% of the loan value you may be subject to enhance penalties under Florida law.*



By: Houston Short



*The Business  
Boutique Law Firm*

*The hiring of a lawyer is an important decision that should not be based solely upon advertising. Before you decide, ask us to send you free written information about our qualifications & experience.*

**280 West Canton Avenue  
Suite 410  
Winter Park, Florida 32789**

**Telephone: 407 647-7645  
e-mail: ps@pohlshort.com**

**www.pohlshort.com**