



# BUSINESS WEEKLY

Restoring the primacy of choshen mishpat

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UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA



## STORY LINE

By Rabbi Meir Orlian

**PRUZBUL** Mr. Weiss contacted Rabbi Dayan at the Business Halacha Institute. "I read with interest last week's 'Storyline,' which addressed shemittas kesafim," he said. "I understood that at the end of Shemittah 5775 loans past due are canceled."

"That is correct," replied Rabbi Dayan. "According to many authorities this is true also outside of Israel, even nowadays."

"My question is as follows," said Mr. Weiss. "I have a number of outstanding loans. An acquaintance also just asked me for a week-long loan of \$5,000 until he gets his paycheck. I'm afraid to lend to him, though. What happens if he is delayed in repaying until after Rosh Hashanah? Then the loan will be canceled, and I'll lose my money!"

"You are in company with many other people," replied Rabbi Dayan, "although I can't say in good company."

"What do you mean?" asked Mr. Weiss.

"The Torah explicitly admonishes us not to refrain from lending out of concern for Shemittah," said Rabbi Dayan. "It states: 'Beware lest there be a lawless thought in your heart, saying, 'The seventh year approaches, the remission year,' and you will look malevolently upon your destitute brother and refuse to give him'" (Devarim 15:9).

"Over 2,000 years ago, toward the end of the Second Beis Hamikdash," continued Rabbi Dayan, "Hillel noticed that people were refusing to lend others out of concern that the loan would not be repaid. In doing so they were violating this admonition. He therefore instituted writing a pruzbul to allow collecting the loan after Shemittah."

"What is a pruzbul?" asked Mr. Weiss. "How does it work? What do I have to do?"

"If you have a few minutes, I'm happy to explain to you," replied Rabbi Dayan.

"Certainly," said Mr. Weiss. "Go ahead; I'm all ears."

"As you mentioned, the mitzvah of shemittas kesafim restricts a creditor from collecting his loans after Shemittah," explained Rabbi Dayan.

"The Torah states: 'Every creditor shall remit his authority over what he has lent his fellow' (Devarim 15:2). However, if the creditor transferred the loan and its accompanying documents to beis din's authority to



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**PRUZBUL Q:** What exactly is a pruzbul? Also, which beis din is empowered to oversee a pruzbul, and what is the correct wording for a pruzbul?

**A:** Biblically, the year of Shemittah cancels debts. Hillel Hazakein observed that people refrained from lending in advance of the Shemittah year, thus violating an explicit prohibition of the Torah (Devarim 15:9). To prevent widespread violation of this prohibition, Hillel formulated a pruzbul so that loans do not become canceled during Shemittah. The pruzbul transfers the loan to beis din for collection and beis din then empowers the creditor to collect the money as their agent. Since loans are not canceled, people will not refrain from loaning money in advance of Shemittah.

There is a debate concerning the type of beis din empowered to oversee a pruzbul. The lenient opinion maintains that it may be arranged by any three adult Jewish males who understand the issues involved with arranging a pruzbul. This is the position adopted by Rema (C.M. 77:18) and accepted as the widespread custom by Ashkenazim. See next page a pruzbul that may be used by Ashkenazim.

Many others contend that the beis din must be an esteemed beis din kavua that was empowered by the local residents. Shulchan Aruch (C.M. 67:18) follows this opinion and is the position practiced by Sephardim.

It is obviously challenging for many people to arrange their pruzbul with

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## STORY LINE

collect in his stead, the Shemittah year does not remit the loan.

"In order to encourage people to lend and not worry about the loan being canceled, Hillel expanded this principle: He instituted drafting a document that all loans are transferred to beis din, allowing the creditor himself to collect. This institution is called pruzbul" (C.M. 67:11, 18-21; Sma 67:22, 36).

"I don't understand, though," objected Mr. Weiss. "If the Torah states that the loan should be remitted, how can Hillel institute that the creditor can collect, against Torah law?"

"The Gemara (Gittin 36a-b) raises this question and provides two explanations," replied Rabbi Dayan. "First, the institution was based on the opinion that nowadays the obligation of Shemittah is Rabbinic, so that the Sages have the ability to institute rules as they wish.

"Second, in monetary matters the Sages have broad authority, on the basis of hefker beis din hefker — beis din has the right to confiscate property," continued Rabbi Dayan. "Thus, even according to the opinion that Shemittah remains mid'Oraisa, the Sages can still institute that the creditor can collect through the means of pruzbul."

"So, what do I have to do in practice?" asked Mr. Weiss.

"Fill out a form stating that you are submitting all loans to beis din to allow you to collect them after Shemittah," answered Rabbi Dayan. "The form must be signed by Dayanim or witnesses and should be filled out at the end of Elul, before Rosh Hashanah. These forms are readily available in shuls and Jewish publications."



## BHI HOTLINE

a beis din kavua; this is especially true for people who live in places where there is no local beis din kavua. Some authorities maintain that it is acceptable to transfer one's debts to a beis din kavua without appearing before them and merely declaring to witnesses that he is transferring the debts owed to him to beis din (Rema, C.M. 67:20).

Others reject this approach (Yam Shel Shlomo, Gittin 4:46, Tumim 67:21). Common custom among Sephardim is to follow the lenient position regarding this matter (Yabia Omer 3, C.M. 6 and Or L'Tzion Hilchos Hashmatas Kesafim). Below is a pruzbul that follows the approach used by Sephardim.

Next week, iy"H, we will discuss how one who finds it uncomfortable to appear before a beis din may write a pruzbul.

For questions on monetary matters,  
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### PRUZBUL (ASHKENAZ)

\_\_\_\_\_ came before us, the undersigned Beis Din, and declared: "I hereby convey to you the Beis Din, Rabbi \_\_\_\_\_ and Rabbi \_\_\_\_\_, and Rabbi \_\_\_\_\_, that all debts owed to me, both debts that are documented in writing, and debts that were made by oral agreement, so that I may collect them at any time I desire."

And we the Beis Din, since the creditor has conveyed to us the Pruzbal as enacted by chazal, we have written this Pruzbul document pursuant to the custom of chazal from the times of Hillel the Elder, and have empowered the creditor so that none of the debts owed to him up until this date, written or oral, will be canceled.

As proof we affix our signatures today, the \_\_\_\_ day of the month of Elul, in the year 5775, here \_\_\_\_\_.

Rabbi \_\_\_\_\_

Rabbi \_\_\_\_\_

Rabbi \_\_\_\_\_

### PRUZBUL (SEFARDIM)

\_\_\_\_\_ came before us the undersigned witnesses, and declared: "you are my witnesses that I hereby convey to the Beis Din \_\_\_\_\_ located in \_\_\_\_\_ comprised of Rabbi \_\_\_\_\_, Rabbi \_\_\_\_\_ and Rabbi \_\_\_\_\_, that all debts owed to me, both debts that are documented in writing, and debts that were made by oral agreement, that I may collect them any time I desire."

As proof we affix our signatures today, the \_\_\_\_ day of the month of Elul, in the year 5775, here \_\_\_\_\_.

\_\_\_\_\_ This is all valid and in good standing.

\_\_\_\_\_ Witness

\_\_\_\_\_ Witness

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