



PRUZBUL - AGENT (Ashkenazim)

Mr. _____ came before us, the undersigned Beis Din, and declared that he is an agent of Mrs. _____, who appointed him to make a pruzbul. Following is what Mr. _____ said: "Mrs. _____ conveys to you the court all debts owed to her, whether these debts are documented in writing or oral agreement, so that she may collect them at any time she wishes."

Since the above-mentioned creditor has conveyed to us the pruzbul as enacted by Chazal we have written this pruzbul document in keeping with the custom of Chazal from the time of Hillel the Elder. We have empowered the creditor so that none of the debts owed to her up until this date, written or oral, will be canceled.

As proof we affixed our signatures today, the ____ day of the month of Elul, in the year 5775, here _____.

Rabbi _____

Rabbi _____

Rabbi _____

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 our Pruzbul 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. (See our Pruzbul Sephardim).

It is obviously challenging for many people to arrange their pruzbul with a beis din kavua and 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 amongst Sephardim is to follow the lenient position regarding this matter (Yabia Omer 3, C.M. 6 and Or L'Tzion Hilchos Hashmatas Kesafim).

Poskim discuss whether one can appoint an agent to fill out a pruzbul. Some maintain that lenders must personally appear before beis din since *mili lo mimsari l'shaliach* — "mere words cannot be transferred to an agent." Consequently, an agent appointed to write a gift document may not appoint a sub-agent to fulfill that instruction (Erech Lechem 67:19).

Many others disagree and contend that the principle is limited to one agent conveying instructions to another, but when the principal instructs an agent to make a declaration on his behalf, it is considered as though the principal is making that declaration and does not have the limitation of *mili lo mimsari l'shaliach* (Machaneh Ephraim, Shluchin 7; Noda BiYehudah, Tinyana Y.D. 147; and Birkei Yosef, O.C. 434:5).

The majority of Poskim follow this position, especially since the cancellation of loans during Shemittah is Rabbinic. Accordingly, a woman who is uncomfortable appearing before beis din may appoint an agent to make her pruzbul. When utilizing this option one can rely on the presumption that the agent fulfilled his agency, because the issue is only Rabbinic (Yeshuos Yisrael 67:1). This Pruzbul may be used for this purpose.

Another option is to submit a request in writing to the beis din to fill out a pruzbul for him/her (see Chasam Sofer, C.M. 113). See our Pruzbul Fax/Mail..