

By Senator Gutman

34-738-98

1 A bill to be entitled
2 An act relating to hiring, leasing, or
3 obtaining personal property or equipment with
4 intent to defraud; amending s. 812.155, F.S.;
5 prescribing acts that constitute prima facie
6 evidence of intent to defraud; providing
7 authorized means for demand for return;
8 requiring notice on rental agreements;
9 providing penalties; providing an effective
10 date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Section 812.155, Florida Statutes, is
15 amended to read:

16 812.155 Hiring, leasing, or obtaining personal
17 property or equipment with the intent to defraud; failing to
18 return hired or leased personal property or equipment; rules
19 of evidence.--

20 (1) OBTAINING BY TRICK, FALSE REPRESENTATION,
21 ETC.--Whoever, with the intent to defraud the owner or any
22 person lawfully possessing any personal property or equipment,
23 obtains the custody of such personal property or equipment by
24 trick, deceit, or fraudulent or willful false representation
25 shall be guilty of a misdemeanor of the second degree,
26 punishable as provided in s. 775.082 or s. 775.083, unless the
27 value of the personal property or equipment is of a value of
28 \$300 or more; in that event the violation constitutes a felony
29 of the third degree, punishable as provided in s. 775.082, s.
30 775.083, or s. 775.084.

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1 (2) HIRING OR LEASING WITH THE INTENT TO
2 DEFRAUD.--Whoever, with intent to defraud the owner or any
3 person lawfully possessing any personal property or equipment
4 of the rental thereof, hires or leases said personal property
5 or equipment from such owner or such owner's agents or any
6 person in lawful possession thereof shall, upon conviction, be
7 guilty of a misdemeanor of the second degree, punishable as
8 provided in s. 775.082 or s. 775.083, unless the value of the
9 personal property or equipment is of a value of \$300 or more;
10 in that event the violation constitutes a felony of the third
11 degree, punishable as provided in s. 775.082, s. 775.083, or
12 s. 775.084.

13 (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL
14 PROPERTY.--Whoever, after hiring or leasing any personal
15 property or equipment under an agreement to redeliver the same
16 to the person letting such personal property or equipment or
17 his or her agent at the termination of the period for which it
18 was let, shall, without the consent of such person or persons
19 and with the intent to defraud, abandon or willfully refuse to
20 redeliver such personal property or equipment as agreed,
21 shall, upon conviction, be guilty of a misdemeanor of the
22 second degree, punishable as provided in s. 775.082 or s.
23 775.083, unless the value of the personal property or
24 equipment is of a value of \$300 or more; in that event the
25 violation constitutes a felony of the third degree, punishable
26 as provided in s. 775.082, s. 775.083, or s. 775.084.

27 (4) EVIDENCE OF FRAUDULENT INTENT.--

28 (a) In prosecutions under this section, obtaining
29 ~~fraudulent intent may be inferred from proof that the property~~
30 ~~or equipment~~ under ~~was obtained by~~ false pretenses; ~~by~~
31 ~~absconding~~ without payment or offering to pay any outstanding

1 balance; or ~~by surreptitiously~~ removing or attempting to
2 remove the property or equipment from the county, without the
3 express written consent of the lessor is prima facie evidence
4 of fraudulent intent.

5 (b) In a prosecution under subsection (3), failure to
6 redeliver the property or equipment upon demand is prima facie
7 evidence of fraudulent intent ~~Fraudulent intent may be~~
8 ~~inferred from proof of the failure to make payment or~~
9 ~~redeliver upon demand made either in person or by certified~~
10 ~~mail. This inference may be made only when there is no~~
11 ~~dispute as to the amount owed.~~

12 (c) In a prosecution under subsection (3), failure to
13 pay any amount due under the agreement upon demand is prima
14 facie evidence of fraudulent intent. Amounts due under a
15 rental agreement include unpaid rental for the time period
16 during which the property or equipment was not returned and
17 include the cost of repairing or replacing the property or
18 equipment if it has been damaged, whichever is less.

19 (5) DEMAND FOR RETURN.--Demand for return of overdue
20 property or equipment and for payment of amounts due may be
21 made in person, by hand delivery, or by certified mail, return
22 receipt requested, addressed to the last known address of the
23 lessee.

24 (6) NOTICE REQUIRED.--As a prerequisite to prosecution
25 under this section, the following statement must be contained
26 in the agreement under which the owner or person lawfully
27 possessing the property or equipment has relinquished its
28 custody or in an addendum to that agreement and it must be
29 initialed by the person hiring or leasing the rental property
30 or equipment:

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1 Failure to return rental property or equipment
2 upon expiration of the rental period and
3 failure to pay all amounts due (including costs
4 for damage to the property or equipment) are
5 prima facie evidence of intent to defraud,
6 punishable in accordance with section 812.155,
7 Florida Statutes.

8 ~~(7)(5)~~ EXCLUSION OF RENTAL-PURCHASE AGREEMENTS.--This
9 section does not apply to personal property or equipment that
10 is the subject of a rental-purchase agreement that permits the
11 lessee to acquire ownership of the personal property or
12 equipment.

13 Section 2. This act shall take effect upon becoming a
14 law.

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17 SENATE SUMMARY

18 Provides that, in a prosecution for failure to redeliver
19 hired or leased personal property or equipment, failure
20 to redeliver the property on demand and failure to pay
21 amounts due on demand are prima facie evidence of intent
22 to defraud. Provides that demand may be made in
23 person, by hand delivery, or by mail. Requires notice to
24 be included in rental agreements.
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