

Bill No. CS for SB 158

Barcode 574856

CHAMBER ACTION

Senate

House

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The Committee on Commerce and Consumer Services (Lynn)
recommended the following amendment:

Senate Amendment (with title amendment)

On page 3, line 4, through page 6, line 7, delete those
lines

and insert:

Section 3. Section 812.155, Florida Statutes, is
amended to read:

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

(1) OBTAINING BY TRICK, FALSE REPRESENTATION,
ETC.--Whoever, with the intent to defraud the owner or any
person lawfully possessing any personal property or equipment,
obtains the custody of such personal property or equipment by
trick, deceit, or fraudulent or willful false representation
shall be guilty of a misdemeanor of the second degree,
punishable as provided in s. 775.082 or s. 775.083, unless the

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1 value of the personal property or equipment is of a value of
2 \$300 or more; in that event the violation constitutes a felony
3 of the third degree, punishable as provided in s. 775.082, s.
4 775.083, or s. 775.084.

5 (2) HIRING OR LEASING WITH THE INTENT TO
6 DEFRAUD.--Whoever, with intent to defraud the owner or any
7 person lawfully possessing any personal property or equipment
8 of the rental thereof, hires or leases the ~~said~~ personal
9 property or equipment from the ~~such~~ owner or the ~~such~~ owner's
10 agents or any person in lawful possession thereof shall, upon
11 conviction, be guilty of a misdemeanor of the second degree,
12 punishable as provided in s. 775.082 or s. 775.083, unless the
13 value of the personal property or equipment is of a value of
14 \$300 or more; in that event the violation constitutes a felony
15 of the third degree, punishable as provided in s. 775.082, s.
16 775.083, or s. 775.084.

17 (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL
18 PROPERTY.--Whoever, after hiring or leasing any personal
19 property or equipment under an agreement to redeliver the same
20 to the person letting such personal property or equipment or
21 his or her agent at the termination of the period for which it
22 was let, shall, without the consent of such person or persons
23 knowingly ~~and with the intent to defraud,~~ abandon or ~~willfully~~
24 refuse to redeliver the ~~such~~ personal property or equipment as
25 agreed, shall, upon conviction, be guilty of a misdemeanor of
26 the second degree, punishable as provided in s. 775.082 or s.
27 775.083, unless the value of the personal property or
28 equipment is of a value of \$300 or more; in that event the
29 violation constitutes a felony of the third degree, punishable
30 as provided in s. 775.082, s. 775.083, or s. 775.084.

31 (4) EVIDENCE ~~OF FRAUDULENT INTENT.~~--

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1 (a) In prosecutions under this section, obtaining the
 2 property or equipment under false pretenses; absconding
 3 without payment; or removing or attempting to remove the
 4 property or equipment from the county without the express
 5 written consent of the lessor, is ~~prima facie~~ evidence of
 6 fraudulent intent.

7 (b) In a prosecution under subsection (3), failure to
 8 redeliver the property or equipment within 5 days after
 9 receipt of, or within 5 days after return receipt from, the
 10 certified mailing of the demand for return is ~~prima facie~~
 11 evidence of abandonment or refusal to redeliver the property
 12 ~~fraudulent intent~~. Notice mailed by certified mail, return
 13 receipt requested, to the address given by the renter at the
 14 time of rental shall be deemed sufficient and equivalent to
 15 notice having been received by the renter, should the notice
 16 be returned undelivered.

17 (c) In a prosecution under subsection (3), failure to
 18 pay any amount due which is incurred as the result of the
 19 failure to redeliver property after the rental period expires,
 20 and after the demand for return is made, is ~~prima facie~~
 21 evidence of abandonment or refusal to redeliver the property
 22 ~~fraudulent intent~~. Amounts due include unpaid rental for the
 23 time period during which the property or equipment was not
 24 returned and include the lesser of the cost of repairing or
 25 replacing the property or equipment if it has been damaged.

26 (5) DEMAND FOR RETURN.--Demand for return of overdue
 27 property or equipment and for payment of amounts due may be
 28 made in person, by hand delivery, or by certified mail, return
 29 receipt requested, addressed to the lessee's address shown in
 30 the rental contract.

31 (6) NOTICE REQUIRED.--As a prerequisite to prosecution

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1 under this section, the following statement must be contained
 2 in the agreement under which the owner or person lawfully
 3 possessing the property or equipment has relinquished its
 4 custody, or in an addendum to that agreement, and the
 5 statement must be initialed by the person hiring or leasing
 6 the rental property or equipment:

7
 8 Failure to return rental property or equipment upon expiration
 9 of the rental period and failure to pay all amounts due
 10 (including costs for damage to the property or equipment) are
 11 ~~prima facie~~ evidence of abandonment or refusal to redeliver
 12 the property ~~intent to defraud~~, punishable in accordance with
 13 section 812.155, Florida Statutes.

14 ~~(7) EXCLUSION OF RENTAL PURCHASE AGREEMENTS.--This~~
 15 ~~section does not apply to personal property or equipment that~~
 16 ~~is the subject of a rental purchase agreement that permits the~~
 17 ~~lessee to acquire ownership of the personal property or~~
 18 ~~equipment unless the rental store retains title to the~~
 19 ~~personal property or equipment throughout the rental purchase~~
 20 ~~agreement period.~~

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23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 On page 1, line 10, after the second semicolon

26

27 insert:

28 deleting requirement to prove fraudulent intent
 29 to withhold personal property or equipment;
 30 providing that failure to return rental
 31 property within a specified time is evidence of

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1 abandonment or refusal to redeliver the
2 property;
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