

1 A bill to be entitled
 2 An act relating to the unlawful taking of personal
 3 property or equipment; amending s. 812.155, F.S.; deleting
 4 a provision specifying that the prohibition against
 5 obtaining personal property or equipment with intent to
 6 defraud does not apply to a rental-purchase agreement
 7 unless the rental store retains title to the property or
 8 equipment throughout the period of the rental-purchase
 9 agreement; providing an effective date.

10

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

12

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

15 812.155 Hiring, leasing, or obtaining personal property or
 16 equipment with the intent to defraud; failing to return hired or
 17 leased personal property or equipment; rules of evidence.--

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

29 (2) HIRING OR LEASING WITH THE INTENT TO
 30 DEFRAUD.--Whoever, with intent to defraud the owner or any
 31 person lawfully possessing any personal property or equipment of
 32 the rental thereof, hires or leases said personal property or
 33 equipment from such owner or such owner's agents or any person
 34 in lawful possession thereof shall, upon conviction, be guilty
 35 of a misdemeanor of the second degree, punishable as provided in
 36 s. 775.082 or s. 775.083, unless the value of the personal
 37 property or equipment is of a value of \$300 or more; in that
 38 event the violation constitutes a felony of the third degree,
 39 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

40 (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL
 41 PROPERTY.--Whoever, after hiring or leasing any personal
 42 property or equipment under an agreement to redeliver the same
 43 to the person letting such personal property or equipment or his
 44 or her agent at the termination of the period for which it was
 45 let, shall, without the consent of such person or persons and
 46 with the intent to defraud, abandon or willfully refuse to
 47 redeliver such personal property or equipment as agreed, shall,
 48 upon conviction, be guilty of a misdemeanor of the second
 49 degree, punishable as provided in s. 775.082 or s. 775.083,
 50 unless the value of the personal property or equipment is of a
 51 value of \$300 or more; in that event the violation constitutes a
 52 felony of the third degree, punishable as provided in s.
 53 775.082, s. 775.083, or s. 775.084.

54 (4) EVIDENCE OF FRAUDULENT INTENT.--

55 (a) In prosecutions under this section, obtaining the
 56 property or equipment under false pretenses; absconding without

57 | payment; or removing or attempting to remove the property or
58 | equipment from the county without the express written consent of
59 | the lessor, is prima facie evidence of fraudulent intent.

60 | (b) In a prosecution under subsection (3), failure to
61 | redeliver the property or equipment within 5 days after receipt
62 | of, or within 5 days after return receipt from, the certified
63 | mailing of the demand for return is prima facie evidence of
64 | fraudulent intent. Notice mailed by certified mail, return
65 | receipt requested, to the address given by the renter at the
66 | time of rental shall be deemed sufficient and equivalent to
67 | notice having been received by the renter, should the notice be
68 | returned undelivered.

69 | (c) In a prosecution under subsection (3), failure to pay
70 | any amount due which is incurred as the result of the failure to
71 | redeliver property after the rental period expires, and after
72 | the demand for return is made, is prima facie evidence of
73 | fraudulent intent. Amounts due include unpaid rental for the
74 | time period during which the property or equipment was not
75 | returned and include the lesser of the cost of repairing or
76 | replacing the property or equipment if it has been damaged.

77 | (5) DEMAND FOR RETURN.--Demand for return of overdue
78 | property or equipment and for payment of amounts due may be made
79 | in person, by hand delivery, or by certified mail, return
80 | receipt requested, addressed to the lessee's address shown in
81 | the rental contract.

82 | (6) NOTICE REQUIRED.--As a prerequisite to prosecution
83 | under this section, the following statement must be contained in
84 | the agreement under which the owner or person lawfully

85 possessing the property or equipment has relinquished its
86 custody, or in an addendum to that agreement, and the statement
87 must be initialed by the person hiring or leasing the rental
88 property or equipment:

89
90 Failure to return rental property or equipment upon
91 expiration of the rental period and failure to pay all
92 amounts due (including costs for damage to the
93 property or equipment) are prima facie evidence of
94 intent to defraud, punishable in accordance with
95 section 812.155, Florida Statutes.

96
97 ~~(7) EXCLUSION OF RENTAL PURCHASE AGREEMENTS. This section~~
98 ~~does not apply to personal property or equipment that is the~~
99 ~~subject of a rental purchase agreement that permits the lessee~~
100 ~~to acquire ownership of the personal property or equipment~~
101 ~~unless the rental store retains title to the personal property~~
102 ~~or equipment throughout the rental purchase agreement period.~~

103 Section 2. This act shall take effect July 1, 2006.