

1                                   A bill to be entitled  
 2           An act relating to hiring, leasing, or obtaining  
 3           personal property or equipment with the intent to  
 4           defraud; amending s. 812.155, F.S.; revising  
 5           requirements for notice to the lessee of the property  
 6           or equipment after failure to return it when due;  
 7           providing that failure to redeliver the property or  
 8           equipment within a specified period after such notice  
 9           creates a rebuttable presumption of abandonment or  
 10          refusal to redeliver the property or equipment;  
 11          providing that possession of the property or equipment  
 12          by a third party is not a defense to failure to return  
 13          the property or equipment; providing that the lessor  
 14          of a vehicle that is not returned at the conclusion of  
 15          the lease who satisfies specified requirements  
 16          concerning the vehicle is entitled to report the  
 17          vehicle as stolen; providing an effective date.

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

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 21           Section 1.   Section 812.155, Florida Statutes, is amended  
 22           to read:

23           812.155   Hiring, leasing, or obtaining personal property or  
 24           equipment with the intent to defraud; failing to return hired or  
 25           leased personal property or equipment; rules of evidence.—

26           (1)   OBTAINING BY TRICK, FALSE REPRESENTATION, ETC.—A  
 27           person who ~~Whoever~~, with the intent to defraud the owner or any  
 28           other person lawfully possessing any personal property or

29 | equipment, obtains the custody of the ~~such personal~~ property or  
 30 | equipment by trick, deceit, or fraudulent or willful false  
 31 | representation commits: ~~shall be guilty of~~

32 |       (a) A misdemeanor of the second degree, punishable as  
 33 | provided in s. 775.082 or s. 775.083, if unless the value of the  
 34 | ~~personal~~ property or equipment is less than of a value of \$300.  
 35 | ~~or more; in that event the violation constitutes~~

36 |       (b) A felony of the third degree, punishable as provided  
 37 | in s. 775.082, s. 775.083, or s. 775.084, if the value of the  
 38 | property or equipment is \$300 or more.

39 |       (2) HIRING OR LEASING WITH THE INTENT TO DEFRAUD.—A person  
 40 | who ~~Whoever~~, with intent to defraud the owner or any other  
 41 | person lawfully possessing any personal property or equipment of  
 42 | the rental thereof, hires or leases the ~~personal~~ property or  
 43 | equipment from the owner or the owner's agents or any other  
 44 | person in lawful possession thereof commits: ~~shall, upon~~  
 45 | ~~conviction, be guilty of~~

46 |       (a) A misdemeanor of the second degree, punishable as  
 47 | provided in s. 775.082 or s. 775.083, if unless the value of the  
 48 | ~~personal~~ property or equipment is less than of a value of \$300.  
 49 | ~~or more; in that event the violation constitutes~~

50 |       (b) A felony of the third degree, punishable as provided  
 51 | in s. 775.082, s. 775.083, or s. 775.084, if the value of the  
 52 | property or equipment is \$300 or more.

53 |       (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL  
 54 | PROPERTY.—A person who ~~Whoever~~, after hiring or leasing any  
 55 | personal property or equipment under an agreement to redeliver  
 56 | the property or equipment ~~same~~ to the person letting it, ~~such~~

57 ~~personal property or equipment~~ or his or her agent, at the  
 58 termination of the period for which it was let, ~~shall, without~~  
 59 ~~the consent of such person or persons~~ knowingly and without the  
 60 consent of such person or persons abandons ~~abandon~~ or refuses  
 61 refuse to redeliver the ~~personal~~ property or equipment as  
 62 agreed, commits: shall, upon conviction, be guilty of

63 (a) A misdemeanor of the second degree, punishable as  
 64 provided in s. 775.082 or s. 775.083, if unless the value of the  
 65 ~~personal~~ property or equipment is less than of a value of \$300.  
 66 ~~or more; in that event the violation constitutes~~

67 (b) A felony of the third degree, punishable as provided  
 68 in s. 775.082, s. 775.083, or s. 775.084, if the value of the  
 69 property or equipment is \$300 or more.

70 (4) EVIDENCE.—

71 (a) In prosecutions under this section, obtaining the  
 72 property or equipment under false pretenses; absconding without  
 73 payment; or removing or attempting to remove the property or  
 74 equipment from the county without the express written consent of  
 75 the lessor, is evidence of fraudulent intent.

76 (b) In a prosecution under subsection (3), failure to  
 77 redeliver the property or equipment within 5 days from mailing  
 78 the demand for return by certified mail, return receipt  
 79 requested, or delivery by a courier service with tracking  
 80 capability to the lessee's address on the rental contract after  
 81 ~~receipt of,~~ or within 5 days after return receipt from, the  
 82 certified mailing or delivery by the courier service of the  
 83 demand for return creates a rebuttable presumption is evidence  
 84 of abandonment or refusal to redeliver the property. Notice

85 mailed by certified mail, return receipt requested, or delivery  
 86 by a courier service with tracking capabilities to the address  
 87 given by the renter at the time of rental shall be deemed  
 88 sufficient and equivalent to notice having been received by the  
 89 renter, ~~if should~~ the notice is ~~be~~ returned undelivered.

90 (c) In a prosecution under subsection (3), failure to pay  
 91 any amount due which is incurred as the result of the failure to  
 92 redeliver property or equipment after the rental period expires,  
 93 and after the demand for return, creates a rebuttable  
 94 presumption ~~is made, is evidence~~ of abandonment or refusal to  
 95 redeliver the property or equipment. Amounts due include unpaid  
 96 rental for the time period during which the property or  
 97 equipment was not returned and include the lesser of the cost of  
 98 repairing or replacing the property or equipment if it has been  
 99 damaged.

100 (5) DEMAND FOR RETURN.—Demand for return of overdue  
 101 property or equipment and for payment of amounts due may be made  
 102 in person, by hand delivery, or by certified mail, return  
 103 receipt requested, or courier service with tracking capabilities  
 104 addressed to the lessee's address shown in the rental contract.

105 (6) NOTICE REQUIRED.—As a prerequisite to prosecution  
 106 under this section, the following statement must be contained in  
 107 the agreement under which the owner or person lawfully  
 108 possessing the property or equipment has relinquished its  
 109 custody, or in an addendum to that agreement, and the statement  
 110 must be initialed by the person hiring or leasing the rental  
 111 property or equipment:  
 112

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113 Failure to return rental property or equipment upon  
114 expiration of the rental period and failure to pay all  
115 amounts due (including costs for damage to the property or  
116 equipment) are evidence of abandonment or refusal to  
117 redeliver the property, punishable in accordance with  
118 section 812.155, Florida Statutes.

119  
120 (7) POSSESSION BY OTHERS NOT A DEFENSE.—Possession of  
121 personal property or equipment by a third party is not a defense  
122 to failure to return the property.

123 (8) REPORTING VEHICLE AS STOLEN.—A lessor of a vehicle  
124 that is not returned at the conclusion of the lease who  
125 satisfies the requirements of this section concerning the  
126 vehicle is entitled to report the vehicle as stolen to law  
127 enforcement and have the vehicle listed as stolen on any local  
128 or national registries of such vehicles.

129 Section 2. This act shall take effect October 1, 2012.