

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 examples of prima facie evidence of  
 8           abandonment or refusal to redeliver the property or  
 9           equipment; providing that possession of the property  
 10          or equipment by a third party is not a defense to  
 11          failure to return the property or equipment; providing  
 12          that the lessor of a vehicle that is not returned at  
 13          the conclusion of the lease who satisfies specified  
 14          requirements concerning the vehicle is entitled to  
 15          report the vehicle as stolen; providing an effective  
 16          date.

17  
 18 Be It Enacted by the Legislature of the State of Florida:

19  
 20           Section 1. Section 812.155, Florida Statutes, is amended  
 21           to read:

22           812.155 Hiring, leasing, or obtaining personal property or  
 23           equipment with the intent to defraud; failing to return hired or  
 24           leased personal property or equipment; rules of evidence.—

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

29 | equipment by trick, deceit, or fraudulent or willful false  
 30 | representation commits: ~~shall be guilty of~~

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

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

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

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

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

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

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

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

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

69 |       (4) EVIDENCE.—

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

75 |       (b) In a prosecution under subsection (3), failure to  
 76 | redeliver the property or equipment within 5 days after  
 77 | receiving the demand for return from a courier service with  
 78 | tracking capability or by certified mail, return receipt  
 79 | requested after receipt of, or within 5 days after delivery by  
 80 | the courier service or return receipt from, the certified  
 81 | mailing of the demand for return, is prima facie evidence of  
 82 | abandonment or refusal to redeliver the property. Notice mailed  
 83 | by a courier service with tracking capabilities or by certified  
 84 | mail, return receipt requested, to the address given by the

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85 | renter at the time of rental shall be deemed sufficient and  
86 | equivalent to notice having been received by the renter, if  
87 | ~~should~~ the notice is ~~be~~ returned undelivered.

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

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

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

109 |  
110 |       Failure to return rental property or equipment upon  
111 |       expiration of the rental period and failure to pay all  
112 |       amounts due (including costs for damage to the property or

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113 equipment) are evidence of abandonment or refusal to  
114 redeliver the property, punishable in accordance with  
115 section 812.155, Florida Statutes.

116  
117 (7) POSSESSION BY OTHERS NOT A DEFENSE.—Possession of  
118 personal property or equipment by a third party is not a defense  
119 to failure to return the property.

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

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