

Senate Amendments to House Bill No. 206

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

- 5 SECTION 1. (1) (a) It is unlawful to obtain custody of
6 personal property or equipment by trick, deceit, fraud or willful
7 false representation with intent to defraud the owner or any
8 person in lawful possession of the personal property or equipment.
- 9 (b) It is unlawful to hire or lease personal property
10 or equipment from any person who is in lawful possession of the
11 personal property or equipment with intent to defraud that person
12 of the rental due under the rental agreement.
- 13 (c) It is unlawful to abandon or willfully refuse to
14 redeliver personal property as required under a rental agreement
15 without the consent of the lessor or the lessor's agent with
16 intent to defraud the lessor or the lessor's agent.
- 17 (d) A person who violates this subsection (1) shall be
18 guilty of a misdemeanor, punishable as provided in Section
19 97-17-43, unless the value of the personal property or equipment
20 is of a value of Five Hundred Dollars (\$500.00) or more; in that
21 event the violation constitutes a felony, punishable as provided
22 in Section 97-17-41.
- 23 (2) (a) In prosecutions under this section, the following
24 acts are prima facie evidence of fraudulent intent: obtaining the
25 property or equipment under false pretenses; absconding without
26 payment; or removing or attempting to remove the property or
27 equipment from the county without the express written consent of
28 the lessor or the lessor's agent.
- 29 (b) Demand for return of overdue property or equipment
30 and for payment of amounts due may be made personally, by hand

31 delivery, or by certified mail, return receipt requested, to the
32 lessee's address shown in the rental contract.

33 (c) In a prosecution under subsection (1)(c):

34 (i) Failure to redeliver the property or equipment
35 within five (5) days after hand delivery to or return receipt from
36 the lessee is prima facie evidence of fraudulent intent. Notice
37 that is returned undelivered after mailing to the address given by
38 the lessee at the time of rental shall be deemed equivalent to
39 return receipt from the lessee.

40 (ii) Failure to pay any amount due which is
41 incurred as the result of the failure to redeliver property after
42 the rental period expires is prima facie evidence of fraudulent
43 intent. Amounts due include unpaid rental for the time period
44 during which the property or equipment was not returned, and
45 include the lesser of the cost of repairing or replacing the
46 property or equipment, as necessary, if it has been damaged or not
47 returned.

48 **SECTION 2.** This act shall take effect and be in force from
49 and after July 1, 2007.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CLARIFY THE CRIMINALITY OF THEFT OF RENTAL PROPERTY
2 AND CREATE A NEW CRIME OF THEFT OF RENTAL PROPERTY; AND FOR
3 RELATED PURPOSES.

SS26\HB206A.2J

John O. Gilbert
Secretary of the Senate