

10074

I N A S S E M B L Y

March 3, 2010

Introduced by M. of A. KOLB -- read once and referred to the Committee
on Codes

AN ACT to amend the penal law, in relation to the criminality of theft
of rental property or equipment

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The penal law is amended by adding a new section 190.87 to
2 read as follows:
3 S 190.87 CRIMINAL THEFT OF RENTAL PROPERTY OR EQUIPMENT VALUED AT LESS
4 THAN FIVE HUNDRED DOLLARS.
5 1. A PERSON IS GUILTY OF CRIMINAL THEFT OF RENTAL PROPERTY OR EQUIP-
6 MENT VALUED AT LESS THAN FIVE HUNDRED DOLLARS WHEN HE OR SHE KNOWINGLY:
7 (A) OBTAINS CUSTODY OF PERSONAL PROPERTY OR EQUIPMENT BY TRICK,
8 DECEIT, FRAUD OR WILLFUL FALSE REPRESENTATION WITH INTENT TO DEFRAUD THE
9 OWNER OR ANY PERSON IN LAWFUL POSSESSION OF THE PERSONAL PROPERTY OR
10 EQUIPMENT;
11 (B) HIRES OR LEASES PERSONAL PROPERTY OR EQUIPMENT FROM ANY PERSON WHO
12 IS IN LAWFUL POSSESSION OF THE PERSONAL PROPERTY OR EQUIPMENT WITH THE
13 INTENT TO DEFRAUD SUCH PERSON OF THE RENTAL DUE UNDER THE RENTAL AGREE-
14 MENT;
15 (C) ABANDONS OR WILLFULLY REFUSES TO REDELIVER PERSONAL PROPERTY AS
16 REQUIRED UNDER A RENTAL AGREEMENT WITHOUT THE CONSENT OF THE LESSOR OR
17 THE LESSOR'S AGENT, WITH INTENT TO DEFRAUD THE LESSOR OR THE LESSOR'S
18 AGENT.
19 2. UNDER THIS SECTION, THE FOLLOWING ACTS ARE CONSIDERED PRIMA FACIE
20 EVIDENCE OF FRAUDULENT INTENT:
21 (A) OBTAINING THE PROPERTY OR EQUIPMENT UNDER FALSE PRETENSES;
22 (B) ABSCONDING WITHOUT PAYMENT;
23 (C) REMOVING OR ATTEMPTING TO REMOVE THE PROPERTY OR EQUIPMENT FROM
24 THE COUNTY WITHOUT THE EXPRESS WRITTEN CONSENT OF THE LESSOR OR LESSOR'S
25 AGENT; OR
26 (D) FAILING TO PAY ANY AMOUNT DUE WHICH HAS INCURRED AS THE RESULT OF
27 FAILURE TO REDELIVER PROPERTY OR EQUIPMENT AFTER THE RENTAL PERIOD
28 EXPIRES. AMOUNTS DUE MAY INCLUDE UNPAID RENTAL FEES FOR THE TIME PERIOD

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 EXCEEDING THE RENTAL PERIOD EXPIRATION DATE AND THE COST OF REPAIRING OR
2 REPLACING THE PROPERTY OR EQUIPMENT WHICHEVER IS THE LESSER AMOUNT, AS
3 NECESSARY, IF SUCH PROPERTY OR EQUIPMENT HAS BEEN DAMAGED OR NOT
4 RETURNED.

5 3. THE LESSOR OR THE LESSOR'S AGENT MAY DEMAND FOR THE RETURN OF OVER-
6 DUE PROPERTY OR EQUIPMENT AND FOR PAYMENT OF AMOUNTS DUE, INCLUDING ANY
7 AMOUNT DUE AS A RESULT OF THE FAILURE TO REDELIVER PROPERTY WHEN THE
8 RENTAL PERIOD EXPIRED.

9 (A) UPON DEMAND OF SUCH PROPERTY OR EQUIPMENT, THE LESSEE SHALL HAVE
10 FIVE DAYS TO RETURN SUCH PROPERTY OR EQUIPMENT TO THE LESSOR AND SHALL
11 PAY FOR THE ADDITIONAL COST OF POSSESSING SUCH PROPERTY OR EQUIPMENT
12 BEYOND THE RENTAL PERIOD EXPIRATION DATE.

13 (B) DEMAND FOR RETURN OF OVERDUE PROPERTY OR EQUIPMENT AND FOR
14 PAYMENTS OF AMOUNTS DUE MAY BE MADE IN PERSON, BY HAND DELIVERY, OR BY
15 CERTIFIED MAIL WITH A RETURN RECEIPT REQUESTED TO THE LESSEE'S ADDRESS
16 SHOWN ON THE RENTAL CONTRACT. IF MAILED NOTICE IS RETURNED UNDELIVERED
17 AFTER SUCH NOTICE HAS BEEN MAILED TO THE ADDRESS GIVEN BY THE LESSEE AT
18 THE TIME OF RENTAL, IT SHALL BE DEEMED EQUIVALENT TO A RETURN RECEIPT
19 FROM THE LESSEE.

20 (C) FAILURE TO RETURN SUCH PROPERTY OR EQUIPMENT OR PAY FOR THE ADDI-
21 TIONAL COST OF POSSESSING SUCH PROPERTY OR EQUIPMENT WITHIN SUCH FIVE
22 DAY PERIOD SHALL BE CONSIDERED PRIMA FACIE EVIDENCE OF FRAUD.

23 CRIMINAL THEFT OF RENTAL PROPERTY OR EQUIPMENT VALUED AT LESS THAN
24 FIVE HUNDRED DOLLARS IS A CLASS A MISDEMEANOR.

25 S 2. The penal law is amended by adding a new section 190.88 to read
26 as follows:

27 S 190.88 CRIMINAL THEFT OF RENTAL PROPERTY OR EQUIPMENT VALUED AT FIVE
28 HUNDRED DOLLARS OR MORE.

29 1. A PERSON IS GUILTY OF CRIMINAL THEFT OF RENTAL PROPERTY OR EQUIP-
30 MENT VALUED AT FIVE HUNDRED DOLLARS OR MORE WHEN HE OR SHE KNOWINGLY:

31 (A) OBTAINS CUSTODY OF PERSONAL PROPERTY OR EQUIPMENT BY TRICK,
32 DECEIT, FRAUD OR WILLFUL FALSE REPRESENTATION WITH INTENT TO DEFRAUD THE
33 OWNER OR ANY PERSON IN LAWFUL POSSESSION OF THE PERSONAL PROPERTY OR
34 EQUIPMENT;

35 (B) HIRES OR LEASES PERSONAL PROPERTY OR EQUIPMENT FROM ANY PERSON WHO
36 IS IN LAWFUL POSSESSION OF THE PERSONAL PROPERTY OR EQUIPMENT WITH THE
37 INTENT TO DEFRAUD SUCH PERSON OF THE RENTAL DUE UNDER THE RENTAL AGREE-
38 MENT;

39 (C) ABANDONS OR WILLFULLY REFUSES TO REDELIVER PERSONAL PROPERTY AS
40 REQUIRED UNDER A RENTAL AGREEMENT WITHOUT THE CONSENT OF THE LESSOR OR
41 THE LESSOR'S AGENT, WITH INTENT TO DEFRAUD THE LESSOR OR THE LESSOR'S
42 AGENT.

43 2. UNDER THIS SECTION, THE FOLLOWING ACTS ARE CONSIDERED PRIMA FACIE
44 EVIDENCE OF FRAUDULENT INTENT:

45 (A) OBTAINING THE PROPERTY OR EQUIPMENT UNDER FALSE PRETENSES;

46 (B) ABSCONDING WITHOUT PAYMENT;

47 (C) REMOVING OR ATTEMPTING TO REMOVE THE PROPERTY OR EQUIPMENT FROM
48 THE COUNTY WITHOUT THE EXPRESS WRITTEN CONSENT OF THE LESSOR OR LESSOR'S
49 AGENT; OR

50 (D) FAILING TO PAY ANY AMOUNT DUE WHICH HAS INCURRED AS THE RESULT OF
51 FAILURE TO REDELIVER PROPERTY OR EQUIPMENT AFTER THE RENTAL PERIOD
52 EXPIRES. AMOUNTS DUE MAY INCLUDE UNPAID RENTAL FEES FOR THE TIME PERIOD
53 EXCEEDING THE RENTAL PERIOD EXPIRATION DATE AND THE COST OF REPAIRING OR
54 REPLACING THE PROPERTY OR EQUIPMENT WHICHEVER IS THE LESSER AMOUNT, AS
55 NECESSARY, IF SUCH PROPERTY OR EQUIPMENT HAS BEEN DAMAGED OR NOT
56 RETURNED.

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3 AMOUNT DUE AS A RESULT OF THE FAILURE TO REDELIVER PROPERTY WHEN THE
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7 PAY FOR THE ADDITIONAL COST OF POSSESSING SUCH PROPERTY OR EQUIPMENT
8 BEYOND THE RENTAL PERIOD EXPIRATION DATE.

9 (B) DEMAND FOR RETURN OF OVERDUE PROPERTY OR EQUIPMENT AND FOR
10 PAYMENTS OF AMOUNTS DUE MAY BE MADE IN PERSON, BY HAND DELIVERY, OR BY
11 CERTIFIED MAIL WITH A RETURN RECEIPT REQUESTED TO THE LESSEE'S ADDRESS
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14 THE TIME OF RENTAL, IT SHALL BE DEEMED EQUIVALENT TO A RETURN RECEIPT
15 FROM THE LESSEE.

16 (C) FAILURE TO RETURN SUCH PROPERTY OR EQUIPMENT OR PAY FOR THE ADDI-
17 TIONAL COST OF POSSESSING SUCH PROPERTY OR EQUIPMENT WITHIN SUCH FIVE
18 DAY PERIOD SHALL BE CONSIDERED PRIMA FACIE EVIDENCE OF FRAUD.

19 CRIMINAL THEFT OF RENTAL PROPERTY OR EQUIPMENT VALUED AT FIVE HUNDRED
20 DOLLARS OR MORE IS A CLASS E FELONY.

21 S 3. This act shall take effect on the thirtieth day after it shall
22 have become a law.