S T A T E O F N E W Y O R K

4469

2015-2016 Regular Sessions

I N S E N A T E

March 23, 2015

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the crime of theft by failure to make required disposition of funds received

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

Section 1. The penal law is amended by adding a new section 165.18 to read as follows:

S 165.18 THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF FUNDS RECEIVED.

1. A PERSON IS GUILTY OF THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF FUNDS RECEIVED WHEN HE OR SHE OBTAINS PROPERTY UPON AGREEMENT, OR SUBJECT TO A KNOWN LEGAL OBLIGATION, TO MAKE SPECIFIED PAYMENTS OR OTHER DISPOSITION, WHETHER FROM SUCH PROPERTY OR ITS PROCEEDS OR FROM HIS OWN PROPERTY TO BE RESERVED IN EQUIVALENT AMOUNT AND HE OR SHE INTENTIONALLY DEALS WITH THE PROPERTY OBTAINED AS HIS OR HER OWN AND FAILS TO MAKE THE REQUIRED PAYMENT OR DISPOSITION. THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF FUNDS RECEIVED APPLIES NOTWITHSTANDING THAT IT MAY BE IMPOSSIBLE TO IDENTIFY PARTICULAR PROPERTY AS BELONGING TO THE VICTIM AT THE TIME OF THE FAILURE OF THE ACTOR TO MAKE THE REQUIRED PAYMENT OR DISPOSITION.

2. AN OFFICER OR EMPLOYEE OF THE GOVERNMENT OR OF A FINANCIAL INSTITUTION IS PRESUMED:

(A) TO KNOW ANY LEGAL OBLIGATION RELEVANT TO HIS OR HER CRIMINAL LIABILITY UNDER THIS SECTION; AND

(B) TO HAVE DEALT WITH THE PROPERTY AS HIS OR HER OWN IF HE OR SHE FAILS TO PAY OR ACCOUNT UPON LAWFUL DEMAND, OR IF AN AUDIT REVEALS A SHORTAGE OR FALSIFICATION OF ACCOUNTS.

THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF FUNDS RECEIVED IS A CLASS A MISDEMEANOR.

S 2. This act shall take effect immediately.

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

LBD09509-01-5