

4593

2015-2016 Regular Sessions

I N S E N A T E

March 30, 2015

Introduced by Sen. NOZZOLIO -- 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 larceny

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

1 Section 1. Paragraph (d) of subdivision 2 of section 155.05 of the
2 penal law is amended to read as follows:
3 (d) By false promise.
4 A person obtains property by false promise when, pursuant to a scheme
5 to defraud, he OR SHE obtains property of another by means of a representation, express or implied, that he, SHE or a third person will in
6 the future engage in particular conduct, and when he OR SHE does not
7 intend to engage in such conduct or, as the case may be, does not
8 believe that the third person intends to engage in such conduct.
9
10 In any prosecution for larceny based upon a false promise, the defendant's intention or belief that the promise would not be performed may
11 not be established by or inferred from the fact alone that such promise
12 was not performed. Such a finding may be based only upon evidence establishing that the facts and circumstances of the case are wholly consistent with guilty intent or belief and wholly inconsistent with innocent
13 intent or belief, and excluding to a moral certainty every hypothesis
14 except that of the defendant's intention or belief that the promise
15 would not be performed; PROVIDED THAT PARTIAL PERFORMANCE OF SUCH PROMISE DOES NOT, BY ITSELF, PRECLUDE A REASONABLE JURY FROM MAKING SUCH
16 FINDING FROM ALL THE FACTS AND CIRCUMSTANCES;
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18 S 2. This act shall take effect immediately.
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EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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