

## CHAPTER 18

( HB 201 )

AN ACT relating to theft by failure to make required disposition of property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 514.070 is amended to read as follows:

- (1) A person is guilty of theft by failure to make required disposition of property received when ***he or she***:
  - (a) ***1. ~~He or she~~ Obtains property upon agreement or subject to a known legal obligation to make specified payment, **with no option to purchase**, or other disposition whether from such property or its proceeds or from his or her own property to be reserved in equivalent amount; and***
    - 2. ~~(b) ~~He or she~~~~ Intentionally deals with the property as his or her own and fails to make the required payment or disposition; or***
  - (b) ***1. Rents or leases personal property having a fair market value of one hundred dollars (\$100) or more under a written agreement with no option to purchase;***
    - 2. Fails to return the personal property within five (5) days after receiving notice sent by the merchant or lessor demanding return by certified mail at the address on the written agreement; and***
    - 3. Intentionally possesses or conceals the personal property, or otherwise withholds the location, if known, of the personal property.***
- (2)
  - (a) ***It shall not be a defense to subsection (1)(b) of this section that the person returned the personal property after the expiration of the time period specified in subsection (1)(b)2. of this section.***
  - (b) ***If the personal property is returned, any monetary loss resulting from the deprivation of the right of the owner to use the personal property for future rentals may only be pursued as a civil matter under the terms of the rental agreement.***
  - (c) ***This section shall not be construed to prevent a person from being prosecuted under any other provision of the Kentucky Penal Code for the failure to return the personal property as provided in subsection (1)(b) of this section.***
- (3) The provisions of subsection (1) ***of this section*** apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.
- ~~(4)~~~~(3)~~ 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 when:
    1. He or she fails to account or pay upon lawful demand; or
    2. An audit reveals a shortage or falsification of accounts.
- ~~(5)~~~~(4)~~ Theft by failure to make required disposition of property received is a Class B misdemeanor unless, ***for a violation of subsection (1)(a) of this section***:
  - (a) The value of the property is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;
  - (b) The value of the property is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
  - (c) A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or
  - (d) The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

- (6)~~(5)~~ A~~No~~ person shall **not** be convicted of theft by failure to make required disposition of property received when he or she has also been convicted of a violation of KRS 522.050 arising out of the same incident.
- (7)~~(6)~~ If any person commits two (2) or more separate offenses of theft by failure to make a required disposition of property received within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.

**Signed by Governor March 15, 2025.**