

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

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

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

4 (1) A person is guilty of theft by failure to make required disposition of property
5 received when ***he or she***:

6 (a) ***1.*** ~~[He or she]~~Obtains property upon agreement or subject to a known
7 legal obligation to make specified payment, ***with no option to purchase,***
8 or other disposition whether from such property or its proceeds or from
9 his or her own property to be reserved in equivalent amount; and

10 ***2.***~~[(b)]~~ ~~[He or she]~~Intentionally deals with the property as his or her own
11 and fails to make the required payment or disposition; ***or***

12 ***(b) 1. Rents or leases personal property having a fair market value of one***
13 ***hundred dollars (\$100) or more under a written agreement with no***
14 ***option to purchase;***

15 ***2. Fails to return the personal property within five (5) days after***
16 ***receiving notice sent by the merchant or lessor demanding return by***
17 ***certified mail at the address on the written agreement; and***

18 ***3. Intentionally possesses or conceals the personal property, or otherwise***
19 ***withholds the location, if known, of the personal property.***

20 (2) ***(a) It shall not be a defense to subsection (1)(b) of this section that the person***
21 ***returned the personal property after the expiration of the time period***
22 ***specified in subsection (1)(b)2. of this section.***

23 ***(b) If the personal property is returned, any monetary loss resulting from the***
24 ***deprivation of the right of the owner to use the personal property for future***
25 ***rentals may only be pursued as a civil matter under the terms of the rental***
26 ***agreement.***

27 ***(c) This section shall not be construed to prevent a person from being***

1 *prosecuted under any other provision of the Kentucky Penal Code for the*
2 *failure to return the personal property as provided in subsection (1)(b) of*
3 *this section.*

4 **(3)** The provisions of subsection (1) *of this section* apply notwithstanding that it may
5 be impossible to identify particular property as belonging to the victim at the time
6 of the actor's failure to make the required payment or disposition.

7 ~~**(4)**~~~~(3)~~ An officer or employee of the government or of a financial institution is
8 presumed:

9 (a) To know any legal obligation relevant to his or her criminal liability under
10 this section; and

11 (b) To have dealt with the property as his *or her* own when:

12 1. He or she fails to account or pay upon lawful demand; or

13 2. An audit reveals a shortage or falsification of accounts.

14 ~~**(5)**~~~~(4)~~ Theft by failure to make required disposition of property received is a Class B
15 misdemeanor unless, *for a violation of subsection (1)(a) of this section:*

16 (a) The value of the property is five hundred dollars (\$500) or more but less than
17 one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;

18 (b) The value of the property is one thousand dollars (\$1,000) or more but less
19 than ten thousand dollars (\$10,000), in which case it is a Class D felony;

20 (c) A person has three (3) or more convictions under paragraph (a) of this
21 subsection within the last five (5) years, in which case it is a Class D felony.

22 The five (5) year period shall be measured from the dates on which the
23 offenses occurred for which the judgments of conviction were entered; or

24 (d) The value of the property is ten thousand dollars (\$10,000) or more, in which
25 case it is a Class C felony.

26 ~~**(6)**~~~~(5)~~ ~~A~~~~Ne~~ person shall *not* be convicted of theft by failure to make required
27 disposition of property received when he or she has also been convicted of a

1 violation of KRS 522.050 arising out of the same incident.

2 ~~(Z)(6)~~ If any person commits two (2) or more separate offenses of theft by failure to
3 make a required disposition of property received within ninety (90) days, the
4 offenses may be combined and treated as a single offense, and the value of the
5 property in each offense may be aggregated for the purpose of determining the
6 appropriate charge.