

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2165

BY DELEGATE PACK

[Introduced February 10, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §61-13-3a, relating to crimes against property; creating the crime of theft of
3 rental, leased, leased-purchased, or loaned property; creating certain evidentiary
4 presumptions related to intent; defining “proper notice” for a written demand for return of
5 property; requiring a written demand for return of the property; establishing property
6 replacement value to determine the value of the theft; creating misdemeanor and felony
7 offenses; providing criminal penalties; and, establishing the agreements to which this
8 section applies.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-13a. Theft of rental, leased, lease-purchased, or loaned property; penalties.

1 (a) A person who, with intent to deprive the owner or owner’s agent, wrongfully obtains, or
2 exerts unauthorized control over, or by color or aid of deception gains control of personal property
3 that is rented, leased, or loaned by written agreement to the person, is guilty of theft of rental,
4 leased, lease-purchased, or loaned property.

5 (b) The finder of fact may presume intent to deprive if the finder of fact finds either of the
6 following:

7 (1) That the person who rented or leased the property failed to return or make arrangements
8 acceptable to the owner of the property or the owner’s agent to return the property to the owner
9 or the owner’s agent within 72 hours after receipt of proper notice following the due date of the
10 rental, lease, lease-purchase, or loan agreement; or

11 (2) That the renter, lessee, or borrower presented identification to the owner or the owner’s
12 agent that was materially false, fictitious, or not current with respect to name, address, place of
13 employment, or other appropriate items.

14 (c) As used in subsection (2) of this section, “proper notice” consists of a written demand by
15 the owner or the owner’s agent made after the due date of the rental, lease, lease-purchase, or

16 loan period, mailed by certified or registered mail to the renter, lessee, or borrower at: (1) The
17 address the renter, lessee, or borrower gave when the contract was made; or (2) the renter,
18 lessee, or borrower's last known address if later furnished in writing by the renter, lessee,
19 borrower, or the agent of the renter, lessee, or borrower.

20 (d) The replacement value of the property obtained must be utilized in determining the amount
21 involved in the theft of rental, leased, lease-purchased, or loaned property.

22 (e)(1) Theft of rental, leased, lease-purchased, or loaned property is a felony if the rental,
23 leased, lease-purchased, or loaned property is valued at \$5,000 or more. If any person shall be
24 determined to be guilty of theft under this section, he or she shall be guilty of a felony and, upon
25 conviction, shall be confined in jail for a period of time not less than one nor more than five years,
26 and be fined not exceeding \$5,000.

27 (2) Theft of rental, leased, lease-purchased, or loaned property is a misdemeanor if the rental,
28 leased, lease-purchased, or loaned property is valued at \$750 or more but less than \$5,000. If
29 any person is determined to be guilty of theft under this section, he or she shall be guilty of a
30 misdemeanor and, upon conviction, shall be confined in jail for a period of time not less than two
31 nor more than 12 months, and be fined not exceeding \$1,000.

32 (f) This section applies to rental agreements that provide that the renter may return the
33 property any time within the rental period and pay only for the time the renter actually retained the
34 property, in addition to any minimum rental fee, to lease agreements, to lease-purchase
35 agreements. This section does not apply to rental or leasing of real property under residential
36 landlord-tenant agreements.

NOTE: The purpose of this bill is to create the crime of theft of rental, leased, leased-purchased, or loaned property. The bill provides certain evidentiary presumptions related to intent. It defines "proper notice" for a written demand for return of property and requires a written demand for return of the property. The bill creates misdemeanor and felony offenses.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.