

ESB 2166

THE HOUSE OF REPRESENTATIVES  
Wednesday, March 31, 2010

ENGROSSED  
**Senate Bill No. 2166**  
**As Amended**

ENGROSSED SENATE BILL NO. 2166 - By: BRANAN AND JOHNSON (CONSTANCE)  
of the Senate and NELSON of the House.

[ crimes and punishments - embezzlement - effective date -  
emergency ]

~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1451, as last amended by  
2 Section 7, Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2009, Section 7), is amended to read  
3 as follows:  
4 Section 7. A. Embezzlement is the fraudulent appropriation of property of any  
5 person or legal entity, legally obtained, to any use or purpose not intended or authorized  
6 by its owner, or the secretion of the property with the fraudulent intent to appropriate it  
7 to such use or purpose, under any of the following circumstances:  
8 1. Where the property was obtained by being entrusted to that person for a specific  
9 purpose, use, or disposition and shall include, but not be limited to, any funds "held in  
10 trust" for any purpose;

- 1           2. Where the property was obtained by virtue of a power of attorney being granted  
2 for the sale or transfer of the property;
- 3           3. Where the property is possessed or controlled for the use of another person;
- 4           4. Where the property is to be used for a public or benevolent purpose;
- 5           5. Where any person diverts any money appropriated by law from the purpose and  
6 object of the appropriation;
- 7           6. Where any person fails or refuses to pay over to the state, or appropriate  
8 authority, any tax or other monies collected in accordance with state law or municipal  
9 ordinance, and who appropriates the tax or monies to the use of that person, or to the use  
10 of any other person not entitled to the tax or monies;
- 11          7. Where the property is possessed for the purpose of transportation, without  
12 regard to whether packages containing the property have been broken;
- 13          8. Where any person removes crops from any leased or rented premises with the  
14 intent to deprive the owner or landlord interested in the land of any of the rent due from  
15 that land, or who fraudulently appropriates the rent to that person or any other person;  
16 or
- 17          9. Where the property is possessed or controlled by virtue of a lease or rental  
18 agreement, and the property is willfully or intentionally not returned within ten (10)  
19 days after the expiration of the agreement.
- 20          Embezzlement does not require a distinct act of taking, but only a fraudulent  
21 appropriation, conversion or use of property.

1 B. Except as provided in subsection C of this section, embezzlement shall be  
2 punished as follows:

3 1. If the value of the property embezzled is less than Five Hundred Dollars  
4 (\$500.00), any person convicted shall be punished by a fine not exceeding One Thousand  
5 Dollars (\$1,000.00), or by imprisonment in the county jail for a term not more than one  
6 (1) year, or by both such fine and imprisonment;

7 2. If the value of the property embezzled is Five Hundred Dollars (\$500.00), or  
8 more but less than One Thousand Dollars (\$1,000.00), any person convicted shall be  
9 guilty of a felony and shall be punished by imprisonment in the county jail for not more  
10 than one (1) year or by imprisonment in the county jail for one or more nights or  
11 weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the  
12 discretion of the court, and shall be subject to a fine not exceeding Five Thousand Dollars  
13 (\$5,000.00), and ordered to pay restitution to the victim as provided in Section 991f of  
14 Title 22 of the Oklahoma Statutes;

15 3. If the value of the property embezzled is One Thousand Dollars (\$1,000.00) or  
16 more but less than Twenty-five Thousand Dollars (\$25,000.00), any person convicted  
17 shall be guilty of a felony and shall be punished by imprisonment in the State  
18 Penitentiary for a term of not more than five (5) years, and a fine of not exceeding Five  
19 Thousand Dollars (\$5,000.00), and ordered to pay restitution to the victim as provided in  
20 Section 991f of Title 22 of the Oklahoma Statutes; or

21 4. If the value of the property embezzled is Twenty-five Thousand Dollars  
22 (\$25,000.00) or more, any person convicted shall be guilty of a felony and shall be

1 punished by imprisonment in the State Penitentiary for a term of not more than ten (10)  
2 years, and a fine not exceeding Ten Thousand Dollars (\$10,000.00), and ordered to pay  
3 restitution to the victim as provided in Section 991f of Title 22 of the Oklahoma Statutes.

4 C. Any county or state officer, deputy or employee of such officer, who shall divert  
5 any money appropriated by law from the purpose and object of the appropriation, shall,  
6 upon conviction, be guilty of a felony punishable by imprisonment in the State  
7 Penitentiary for a term not less than one (1) year nor more than ten (10) years, and a fine  
8 equal to triple the amount of money so embezzled and ordered to pay restitution to the  
9 victim as provided in Section 991f of Title 22 of the Oklahoma Statutes. The fine shall  
10 operate as a judgment lien at law on all estate of the party so convicted and sentenced,  
11 and shall be enforced by execution or other process for the use of the person whose money  
12 or other funds or property were embezzled. In all cases the fine, so operating as a  
13 judgment lien, shall be released or entered as satisfied only by the person in interest.

14 SECTION 2. This act shall become effective July 1, 2010.

15 SECTION 3. It being immediately necessary for the preservation of the public  
16 peace, health and safety, an emergency is hereby declared to exist, by reason whereof  
17 this act shall take effect and be in full force from and after its passage and approval.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-30-10 - DO PASS,  
19 As Amended.