

SB 2166

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THE STATE SENATE  
Thursday, February 18, 2010

Senate Bill No. 2166  
As Amended

SENATE BILL NO. 2166 - By: Branan 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:

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1451, as last amended by Section 7, Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2009, Section 7), is amended to read as follows:

Section 7. A. Embezzlement is the fraudulent appropriation of property of any person or legal entity, legally obtained, to any use or purpose not intended or authorized by its owner, or the secretion of the property with the fraudulent intent to appropriate it to such use or purpose, under any of the following circumstances:

1. Where the property was obtained by being entrusted to that person for a specific purpose, use, or disposition and shall include, but not be limited to, any funds "held in trust" for any purpose;

2. Where the property was obtained by virtue of a power of attorney being granted for the sale or transfer of the property;

1           3. Where the property is possessed or controlled for the use of  
2 another person;

3           4. Where the property is to be used for a public or benevolent  
4 purpose;

5           5. Where any person diverts any money appropriated by law from  
6 the purpose and object of the appropriation;

7           6. Where any person fails or refuses to pay over to the state,  
8 or appropriate authority, any tax or other monies collected in  
9 accordance with state law or municipal ordinance, and who  
10 appropriates the tax or monies to the use of that person, or to the  
11 use of any other person not entitled to the tax or monies;

12          7. Where the property is possessed for the purpose of  
13 transportation, without regard to whether packages containing the  
14 property have been broken;

15          8. Where any person removes crops from any leased or rented  
16 premises with the intent to deprive the owner or landlord interested  
17 in the land of any of the rent due from that land, or who  
18 fraudulently appropriates the rent to that person or any other  
19 person; or

20          9. Where the property is possessed or controlled by virtue of a  
21 lease or rental agreement, and the property is willfully or  
22 intentionally not returned within ten (10) days after the expiration  
23 of the agreement.

1           Embezzlement does not require a distinct act of taking, but only  
2 a fraudulent appropriation, conversion or use of property.

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

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

10          2. If the value of the property embezzled is Five Hundred  
11 Dollars (\$500.00), or more but less than One Thousand Dollars  
12 (\$1,000.00), any person convicted shall be guilty of a felony and  
13 shall be punished by imprisonment in the county jail for not more  
14 than one (1) year or by imprisonment in the county jail for one or  
15 more nights or weekends pursuant to Section 991a-2 of Title 22 of  
16 the Oklahoma Statutes, at the discretion of the court, and shall be  
17 subject to a fine not exceeding Five Thousand Dollars (\$5,000.00),  
18 and ordered to pay restitution to the victim as provided in Section  
19 991f of Title 22 of the Oklahoma Statutes;

20          3. If the value of the property embezzled is One Thousand  
21 Dollars (\$1,000.00) or more but less than Twenty-five Thousand  
22 Dollars (\$25,000.00), any person convicted shall be guilty of a  
23 felony and shall be punished by imprisonment in the State

1 Penitentiary for a term of not more than five (5) years, and a fine  
2 of not exceeding Five Thousand Dollars (\$5,000.00), and ordered to  
3 pay restitution to the victim as provided in Section 991f of Title  
4 22 of the Oklahoma Statutes; or

5 4. If the value of the property embezzled is Twenty-five  
6 Thousand Dollars (\$25,000.00) or more, any person convicted shall be  
7 guilty of a felony and shall be punished by imprisonment in the  
8 State Penitentiary for a term of not more than ten (10) years, and a  
9 fine not exceeding Ten Thousand Dollars (\$10,000.00), and ordered to  
10 pay restitution to the victim as provided in Section 991f of Title  
11 22 of the Oklahoma Statutes.

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

1 a judgment lien, shall be released or entered as satisfied only by  
2 the person in interest.

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

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

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-16-10 - DO  
9 PASS, As Amended and Coauthored.