

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 908

Short Title: Fraud/Increase Penalties. (Public)

Sponsors: Representatives Murry, S. Ross, and Glazier (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee B.

April 15, 2013

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PENALTY FOR OBTAINING PROPERTY BY FALSE
PRETENSES FOR PROPERTY OF CERTAIN VALUES AND TO PROVIDE THAT AN
ENHANCED PENALTY SHALL BE IMPOSED FOR COMMITTING A SECOND OR
SUBSEQUENT OFFENSE OF FALSE PRETENSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-100 reads as rewritten:

"§ 14-100. Obtaining property by false pretenses.

(a) If any person shall knowingly and designedly by means of any kind of false pretense whatsoever, whether the false pretense is of a past or subsisting fact or of a future fulfillment or event, obtain or attempt to obtain from any person within this State any money, goods, property, services, chose in action, or other thing of value with intent to cheat or defraud any person of such money, goods, property, services, chose in action or other thing of value, such person shall be guilty of a felony: Provided, that if, on the trial of anyone indicted for such crime, it shall be proved that he obtained the property in such manner as to amount to larceny or embezzlement, the jury shall have submitted to them such other felony proved; and no person tried for such felony shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts: Provided, further, that it shall be sufficient in any indictment for obtaining or attempting to obtain any such money, goods, property, services, chose in action, or other thing of value by false pretenses to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and without alleging any ownership of the money, goods, property, services, chose in action or other thing of value; and upon the trial of any such indictment, it shall not be necessary to prove either an intent to defraud any particular person or that the person to whom the false pretense was made was the person defrauded, but it shall be sufficient to allege and prove that the party accused made the false pretense charged with an intent to defraud.

(a1) Except as provided in subsection (a2) of this section, a person convicted of an offense under this section shall be punished as follows:

(1) If the value of the money, goods, property, services, chose in action, or other thing of value is one hundred thousand dollars (\$100,000) or more, a violation of this section is a Class C felony.

(2) If the value of the money, goods, property, services, chose in action, or other thing of value is eighty thousand dollars (\$80,000) or more, but less than one hundred thousand dollars (\$100,000), a violation of this section is a Class D felony.



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1 (3) If the value of the money, goods, property, services, chose in action, or other
2 thing of value is sixty thousand dollars (\$60,000) or more, but less than
3 eighty thousand dollars (\$80,000), a violation of this section is a Class E
4 felony.

5 (4) If the value of the money, goods, property, services, chose in action, or other
6 thing of value is forty thousand dollars (\$40,000) or more, but less than than
7 sixty thousand dollars (\$60,000), a violation of this section is a Class F
8 felony.

9 (5) If the value of the money, goods, property, services, chose in action, or other
10 thing of value is twenty thousand dollars (\$20,000) or more, but less than
11 forty thousand dollars (\$40,000), a violation of this section is a Class G
12 felony.

13 (6) If the value of the money, goods, property, services, chose in action, or other
14 thing of value is less than ~~one hundred thousand dollars (\$100,000)~~, twenty
15 thousand dollars (\$20,000), a violation of this section is a Class H felony.

16 (a2) A person who is convicted of a second or subsequent offense under this section shall
17 have the minimum term of imprisonment to which the person is sentenced for that felony
18 increased by 60 months. The maximum term of imprisonment shall be the maximum term that
19 corresponds to the minimum term after it is increased by 60 months, as specified in
20 G.S. 15A-1340.17(e) and (e1).

21 (a3) An indictment or information for the offense shall allege in that indictment or
22 information the facts set out in subsection (a2) of this section. The pleading is sufficient if it
23 alleges that the defendant committed a second or subsequent offense. One pleading is sufficient
24 for all offenses that are tried at a single trial.

25 (a4) The State shall prove the issues set out in subsection (a2) of this section beyond a
26 reasonable doubt during the same trial in which the defendant is tried for the offense unless the
27 defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest
28 to the offense but pleads not guilty to the issues set out in subsection (a2) of this section, then a
29 jury shall be impaneled to determine the issues.

30 (b) Evidence of nonfulfillment of a contract obligation standing alone shall not establish
31 the essential element of intent to defraud.

32 (c) For purposes of this section, "person" means person, association, consortium,
33 corporation, body politic, partnership, or other group, entity, or organization."

34 **SECTION 2.** This act becomes effective December 1, 2013, and applies to
35 offenses committed on or after that date.