

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.177 Embezzlement by chattel mortgagor, vendee or lessee; penalty; enhanced sentence based on prior convictions.

Sec. 177. (1) A person shall not embezzle or fraudulently remove, conceal, or dispose of any personal property held by him or her subject to a chattel mortgage or written instrument intended to operate as a chattel mortgage, a lease or written instrument intended to operate as a lease, or a contract to purchase not yet fulfilled with intent to injure or defraud the mortgagee, lessor, or vendor under the contract or any assignee of the mortgagee, lessor, or vendor.

(2) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of \$20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of \$200.00 or more but less than \$1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property embezzled, removed, concealed, or disposed of has a value of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine.

(6) Except as otherwise provided in this subsection, the values of property embezzled, removed, concealed, or disposed of in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property embezzled, removed, concealed, or disposed of. If the scheme or course of conduct is directed against only 1 mortgagee, lessor, or vendor, no time limit applies to aggregation under this subsection.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.177;—Am. 1959, Act 119, Eff. Mar. 19, 1960;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 1 of Act 179 of 1927, being CL 1929, § 16977.