

N.C.P.I.—Crim 219.10  
OBTAINING PROPERTY BY FALSE PRETENSES. FELONY.  
CRIMINAL VOLUME  
REPLACEMENT JUNE 2016  
N.C. Gen. Stat. § 14-100  
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219.10 OBTAINING PROPERTY BY FALSE PRETENSES. FELONY.<sup>1</sup>

*NOTE WELL: For offenses occurring on or after December 1, 1997, if the value of the property obtained is \$100,000 or more, use N.C.P.I.—Crim. 219.10A.*

The defendant has been charged with obtaining property by false pretenses. For you to find the defendant guilty of this offense, the State must prove five things beyond a reasonable doubt:

First, that the defendant made a representation to another.

Second, that this representation was false.

Third, that this representation was calculated and intended to deceive.<sup>2</sup>

Fourth, that the victim was in fact deceived by this representation.

And Fifth, that the defendant thereby [obtained] [attempted to obtain] property from the victim.<sup>3</sup>

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant made a representation and that this representation was false, that this representation was calculated and intended to deceive, that the victim was in fact deceived by it, and that the defendant thereby [obtained] [attempted to obtain] property from the victim, it would be your duty to return a verdict of guilty. If you do not so find, or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

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<sup>1</sup> This instruction has been modified to conform with elements of the offense as set out in *S. v. Cronin*, 299 N.C. 229, 242 (1980).

The presentation of a worthless check in exchange for property, standing alone, is sufficient to uphold conviction for obtaining property under false pretenses. *S. v. Rogers*, 346 N.C. 262 (1997).

<sup>2</sup> See *State v. Holanek*, 776 S.E.2d 225 (N.C. Ct. App. 2015), holding that the trial

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court did not commit plain error by failing to instruct the jury that under G.S. 14-100(b) "evidence of nonfulfillment of a contract obligation standing alone shall not establish the essential element of intent to defraud."

3 Normally it will be necessary for the defendant to obtain title to the property. However, under the terms of the statute, if the defendant obtains the property in a manner which would constitute larceny or embezzlement, he is subject to conviction.