

**76-8-402 Misusing public money.**

- (1) Every public officer of this state or a political subdivision, or of any county, city, town, precinct, or district of this state, and every other person charged, either by law or under contract, with the receipt, safekeeping, transfer, disbursement, or use of public money commits an offense if the officer or other charged person:
  - (a) appropriates the money or any portion of it to his own use or benefit or to the use or benefit of another without authority of law;
  - (b) loans or transfers the money or any portion of it without authority of law;
  - (c) fails to keep the money in his possession until disbursed or paid out by authority of law;
  - (d) unlawfully deposits the money or any portion in any bank or with any other person;
  - (e) knowingly keeps any false account or makes any false entry or erasure in any account of or relating to the money;
  - (f) fraudulently alters, falsifies, conceals, destroys, or obliterates any such account;
  - (g) willfully refuses or omits to pay over, on demand, any public money in his hands, upon the presentation of a draft, order, or warrant drawn upon such money by competent authority;
  - (h) willfully omits to transfer the money when the transfer is required by law; or
  - (i) willfully omits or refuses to pay over, to any officer or person authorized by law to receive it, any money received by him under any duty imposed by law so to pay over the same.
- (2) A violation of Subsection (1) is a felony of the third degree, except it is a felony of the second degree if:
  - (a) the value of the money exceeds \$5,000;
  - (b) the amount of the false account exceeds \$5,000;
  - (c) the amount falsely entered exceeds \$5,000;
  - (d) the amount that is the difference between the original amount and the fraudulently altered amount exceeds \$5,000; or
  - (e) the amount falsely erased, fraudulently concealed, destroyed, obliterated, or falsified in the account exceeds \$5,000.
- (3) In addition to the penalty described in Subsection (2), a public officer who violates Subsection (1) is subject to the penalties described in Section 76-8-404.

Amended by Chapter 106, 1999 General Session