

Representative Katherine M. Bryson proposes to substitute the following bill:

**PENALTY FOR MISUSE OF SECURITIES**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Katherine M. Bryson**

**This act modifies the Utah Uniform Securities Act by amending the criminal penalties provisions. The act increases the penalties for cases involving the investment of money from home equity or a retirement account.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**61-1-21**, as last amended by Chapter 160, Laws of Utah 1997

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **61-1-21** is amended to read:

**61-1-21. Penalties for violations.**

(1) A person is guilty of a third degree felony who willfully violates any provision of this chapter except Sections 61-1-1 and 61-1-16, or who willfully violates any rule or order under this chapter, or who willfully violates Section 61-1-16 knowing the statement made to be false or misleading in any material respect.

(2) A person who willfully violates Section 61-1-1:

(a) is guilty of a third degree felony if, at the time the crime was committed, the property, money, or thing unlawfully obtained or sought to be obtained was worth less than \$10,000 [~~or less~~];

(b) is guilty of a second degree felony if[-];

(i) at the time the crime was committed, the property, money, or thing unlawfully obtained or sought to be obtained was worth [~~more than~~] \$10,000[-] or more; or

(ii) (A) at the time the crime was committed, the property, money, or thing unlawfully

26 obtained or sought to be obtained was worth less than \$10,000; and

27 (B) in connection with that violation, the violator knowingly accepted any money

28 representing:

29 (I) equity in a person's home;

30 (II) a withdrawal from any individual retirement account; or

31 (III) a withdrawal from any qualified retirement plan as defined in the Internal Revenue

32 Code; or

33 (c) is guilty of a second degree felony punishable by imprisonment for an indeterminate

34 term of not less than three years or more than 15 years if:

35 (i) at the time the crime was committed, the property, money, or thing unlawfully obtained

36 or sought to be obtained was worth \$10,000 or more; and

37 (ii) in connection with that violation, the violator knowingly accepted any money

38 representing:

39 (A) equity in a person's home;

40 (B) a withdrawal from any individual retirement account; or

41 (C) a withdrawal from any qualified retirement plan as defined in the Internal Revenue

42 Code.

43 (3) No person may be imprisoned for the violation of any rule or order if he proves that  
44 he had no knowledge of the rule or order.

45 (4) In addition to any other penalty for a criminal violation of this chapter, the sentencing

46 judge may impose any penalty or remedy provided for in Subsection 61-1-20(2)(b).