

MUNICIPAL BOND SECURED TRANSACTIONS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

This act modifies the Utah Municipal Bond Act by establishing a method for creating and perfecting security interests for governmental obligations.

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

AMENDS:

11-14-23, as last amended by Chapter 280, Laws of Utah 1981

ENACTS:

11-14-28, Utah Code Annotated 1953

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

Section 1. Section **11-14-23** is amended to read:

11-14-23. Exemptions from application of chapter -- Exception.

~~[This]~~ (1) ~~Except as provided in Subsection (2), this chapter [shall] does not apply to~~ bonds issued by the state of Utah nor to bonds or obligations payable solely from special assessments levied on benefited property~~[-, except with respect to Section]~~.

(2) Sections ~~11-14-14.5 [which shall]~~ 11-14-28 have general application in accordance with ~~[its]~~ their terms.

Section 2. Section **11-14-28** is enacted to read:

11-14-28. Creation and perfection of government security interests.

(1) As used in this section:

(a) "Bonds" means any bond, note, lease, or other obligation of a governmental unit.

(b) "Governmental unit" has the meaning assigned in Subsection 70A-9a-102(45).

(c) "Pledge" means the creation of a security interest of any kind.

(d) "Property" means any property or interests in property, other than real property.

(e) "Security agreement" means any resolution, ordinance, indenture, document, or other agreement or instrument under which the revenues, fees, rents, charges, taxes, or other property are pledged to secure the bonds.

(2) This section expressly governs the creation, perfection, priority, and enforcement of a security interest created by the state or a governmental unit of the state, notwithstanding anything in Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, to the contrary.

(3) (a) The revenues, fees, rents, charges, taxes, or other property pledged by a governmental unit for the purpose of securing its bonds are immediately subject to the lien of the pledge.

(b) (i) The lien is a perfected lien upon the effective date of the security agreement.

(ii) The physical delivery, filing, or recording of a security agreement or financing statement under the Uniform Commercial Code or otherwise, or any other similar act, is not necessary to perfect the lien.

(c) The lien of any pledge is valid, binding, perfected, and enforceable from the time the pledge is made.

(d) The lien of the pledge has priority:

(i) based on the time of the creation of the pledge unless otherwise provided in the security agreement; and

(ii) as against all parties having claims of any kind in tort, contract, or otherwise against the governmental unit, regardless of whether or not the parties have notice of the lien.

(e) Each pledge and security agreement made for the benefit or security of any of the bonds shall continue to be effective until:

(i) the principal, interest, and premium, if any, on the bonds have been fully paid;

(ii) provision for payment has been made; or

(iii) the lien created by the security agreement has been released by agreement of the parties in interest or as provided by the security agreement that created the lien.