

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

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

(I) equity in a person's home;

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

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

(c) is guilty of a second degree felony punishable by imprisonment for an indeterminate term of not less than three years or more than 15 years if:

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

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

(A) equity in a person's home;

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

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

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

(4) In addition to any other penalty for a criminal violation of this chapter, the sentencing judge may impose any penalty or remedy provided for in Subsection 61-1-20(2)(b).