

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 \$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

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

(B) in connection with that violation, the violator caused any person to purchase any security using money representing:

- 28 (I) equity in that person's home;
- 29 (II) a withdrawal from any individual retirement account; or
- 30 (III) a withdrawal from any qualified retirement plan as defined in the Internal Revenue
- 31 Code; or
- 32 (c) is guilty of a first degree felony if:
- 33 (i) at the time the crime was committed, the property, money, or thing unlawfully obtained
- 34 or sought to be obtained was worth more than \$10,000; and
- 35 (ii) in connection with that violation, the violator caused any person to purchase any
- 36 security using money representing:
- 37 (A) equity in that person's home;
- 38 (B) a withdrawal from any individual retirement account; or
- 39 (C) a withdrawal from any qualified retirement plan as defined in the Internal Revenue
- 40 Code.
- 41 (3) No person may be imprisoned for the violation of any rule or order if he proves that
- 42 he had no knowledge of the rule or order.
- 43 (4) In addition to any other penalty for a criminal violation of this chapter, the sentencing
- 44 judge may impose any penalty or remedy provided for in Subsection 61-1-20(2)(b).

Legislative Review Note
as of 12-7-00 10:07 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel