

BILL ANALYSIS

Senate Research Center
77R4135 ESH-F

S.B. 565
By: Armbrister
State Affairs
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DIGEST AND PURPOSE

Due to significant differences between governmental units and private organizations, governmental units cannot perfect their bond pledges by the means afforded under the Business and Commerce Code. This problem subjects governments and their pledges to increased insolvency risks under the 1999 law, making financing harder and more expensive to obtain. As proposed, S.B. 565 restores the Public Securities Code (Article 9, Government Code) as the basic law governing security pledges for bond and other obligations of governmental units.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 9A, Government Code, by adding Chapter 1208, as follows:

CHAPTER 1208. SECURITY FOR PUBLIC SECURITIES

Sec. 1208.001. DEFINITIONS. Defines “credit agreement,” “issuer,” “public security,” “security agreement,” and “security interest.”

Sec. 1208.002. PLEDGE OF SECURITY. Provides that a security interest created by an issuer by means of a security agreement meets certain terms and requirements. Provides that the rights of a lien creditor as defined by Section 9.102(a) (Definitions and Index of Definitions), Business & Commerce Code, are subordinate to a perfected security interest described by Subsection (a). Provides that a security interest in real property is perfected when the security agreement, a memorandum of the security agreement, or other instrument creating the security interest is duly recorded in the real property records of the county in which the property is located. Provides that this section does not create or exempt an issuer from a duty to submit public securities to the attorney general for approval and registration by the comptroller, or authorize an issuer to enter into or adopt a security agreement.

Sec. 1208.003. PREEMPTION. Provides that this chapter is a statute described by Section 9.109(c)(2) (Scope), Business & Commerce Code, and an issuer is considered to be a governmental unit for purposes of that section.

SECTION 2. Provides that Chapter 1208, Government Code, as added by this Act, applies to any security interest as defined by Section 1208.001, Government Code, as added by this Act, regardless of the date on which the security interest was created.

SECTION 3. Effective date: July 1, 2001 if passes, or September 1, 2001.