

MICHIGAN PUBLIC SERVICE COMMISSION (EXCERPT)
Act 3 of 1939

460.10m Lien and security interest; creation; changes in order or charges attachment; perfection; priority; sequestration and payment of revenues.

Sec. 10m. (1) A valid and enforceable lien and security interest in securitization property may be created only by a financing order and the execution and delivery of a security agreement with a financing party in connection with the issuance of securitization bonds.

(2) The lien and security interest shall attach automatically from the time that value is received for the bonds and shall be a continuously perfected lien and security interest in the securitization property and all proceeds of the property, whether accrued or not, shall have priority in the order of filing when a financing statement has been filed with respect to the security interest in accordance with the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, and take precedence over any subsequent judicial and other lien creditor. In addition to the rights and remedies provided by this act, all rights and remedies with respect to a security interest provided by the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, shall apply to the securitization property.

(3) Transfer of an interest in securitization property to an assignee shall be perfected against all third parties, including subsequent judicial and other lien creditors, when a financing statement has been filed with respect to the transfer in accordance with the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102.

(4) The priority of a lien and security interest under this section is not impaired by any later modification of the financing order or by the commingling of funds arising from securitization charges with other funds, and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party. If securitization property has been transferred to an assignee, any proceeds of that property shall be held in trust for the assignee.

(5) In the event of default by the electric utility or its successors, in payment of revenues arising with respect to securitization property, the commission or a court of appropriate jurisdiction, upon the application of the financing party, and without limiting any other remedies available to the financing party, shall order the sequestration and payment to the financing party of revenues arising with respect to the securitization property. An order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the property.

(6) Securitization property shall constitute an account as that term is defined under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102.

(7) For purposes of this act and the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, securitization property shall be in existence whether or not the revenue or proceeds in respect to the property have accrued and whether or not the value of the property right is dependent on the customers of an electric utility receiving service.

(8) Changes in the financing order or in the customer's securitization charges do not affect the validity, perfection, or priority of the security interest in the securitization property.

(9) The description of securitization property in a security agreement or other agreement or a financing statement is sufficient if it refers to this act and the financing order establishing the securitization property.

(10) This act shall control in any conflict between this act and any other law of this state regarding the attachment and perfection and the effect of perfection and priority of any security interest in securitization property.

(11) Notwithstanding the provisions of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, the law of the state of Michigan shall govern the perfection and the effect of perfection and priority of any security interest in the securitization property.

History: Add. 2000, Act 142, Imd. Eff. June 5, 2000.

Popular name: Customer Choice and Electricity Reliability Act