

287A.310 Definitions for ORS 287A.310 and 287A.315; lien of a pledge; Uniform Commercial Code. (1) As used in this section and ORS 287A.315:

(a) “Obligation” means:

(A) A bond;

(B) The commitment of a public body in connection with a credit enhancement device; or

(C) An agreement for exchange of interest rates.

(b) “Property” means:

(A) Real or personal property, tangible or intangible, whether owned when a pledge is made or acquired subsequently to the time the pledge is made; and

(B) Revenues, contract rights, receivables or securities.

(2) The Uniform Commercial Code does not apply to the creation, perfection, priority or enforcement of a lien of a pledge made by a public body.

(3) When otherwise authorized by statute, charter, ordinance or resolution to issue bonds, a public body may pledge as security for payment of obligations all or part of the property of the public body expressly authorized to be pledged by the governing body of the public body.

(4) The lien created by a pledge is valid and binding from the time the pledge is made. Pledged property is subject immediately to the lien of the pledge without physical delivery, filing or any other act.

(5) Except as otherwise expressly provided in an operative document, the lien of the pledge is superior to and has priority over all other claims and liens.

(6) When property subject to a pledge is acquired by a public body after the pledge is made:

(a) The property is subject to the lien upon acquisition by the public body without physical delivery, filing or any other act.

(b) The lien relates to the time the pledge was originally made.

(7) A public body may reserve a right to pledge a pledged property as security for bonds subsequently issued by the public body. If the public body reserves the right, subject to the terms of the operative document that created a previous pledge, the lien of the subsequent pledge may be on a parity or pari passu basis with the lien of the previous pledge, on a prior and superior basis with the lien of the previous pledge or on a subordinate basis with the lien of the previous pledge, as specified in the operative document creating the subsequent pledge. The lien of the subsequent pledge:

(a) Has the priority specified in the operative document creating the subsequent pledge; and

(b) Is superior to and has priority over all other claims and liens except the lien of a pledge with which the lien of the subsequent pledge is on a parity or subordinate basis, as specified in the operative document.

(8) A pledgee may commence an action in a court of competent jurisdiction to foreclose the lien of the pledge and exercise rights and remedies available to the pledgee under the operative document.

(9) When pledged property consists of moneys or property that is in a fund for debt service reserves or payments, a pledgee may foreclose the lien of the pledge by applying the moneys or property in the fund to the payment of the bonds subject to the terms, conditions and limitations in the operative document.

[2007 c.783 §50]