

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

§ 8377. Power to Enter Into Security Loan Agreements.

Subject to conflict of interest protections provided by 1 CMC § 8351(e), the Board of Trustees may enter into an agreement or agreements with a financially responsible stock or brokerage firm, bank, or similar financial institution (“borrower”) authorized to do business under the laws of the Commonwealth, any state or the United States, for the purpose of lending to the borrower securities held by the system, subject to the following conditions:

(1) The securities shall be loaned to the borrower for a period not to exceed one year;

(2) At the termination of the loan period, the borrower shall deliver to the Board of Trustees certificates for identical securities which are of the same class and issue as the loaned securities;

(3) For the protection of the system, the borrower shall deliver to the Board of Trustees or its agent, collateral in the form of cash, letters of credit, bonds, or other interest-bearing notes and obligations of the United States or federal instrumentalities which are eligible for investment by the Board of Trustees, in an amount not less than 102 percent of the market value of the loaned securities, as determined by the Board of Trustees. The system shall have a security interest in the collateral to secure borrower’s obligations under the agreement. The Board of Trustees shall not be obligated to return the collateral or any part thereof to the borrower, except upon borrower’s delivery to the board or its agent of securities identical to the loaned securities, as provided in subsection (2) of this subsection. The Board of Trustees or its designated agent shall monitor the market value of the loaned securities daily, and if, on any business day, the amount of the collateral deposited by the borrower is less than 102 percent of the market value of the loaned securities on that day, the borrower shall immediately deposit with the board or its agent additional collateral in the form of cash, letters of credit, bonds or other interest-bearing notes and obligations of the United States or federal instrumentalities which are eligible for investment by the Board of Trustees. Such additional collateral, together with the collateral previously on deposit, shall be in an amount not less than 102 percent of the market value of the loaned securities at the time of such deposit;

(4) The Board of Trustees, at its election, may use or invest any collateral delivered by a borrower to the board or its agency pursuant to the agreement, and any income and profits earned on the collateral shall be retained for the benefit of the system;

(5) Until the termination of the loan, the borrower may exercise all the incidents of ownership of loaned securities, including the right to transfer the loaned securities to others and vote or otherwise consent as a holder of such securities; provided that the borrower shall be obligated to the Board of Trustees for all dividends and distributions made with respect to the loaned securities during the period of the agreement, including, without limitation, cash, stock or property dividends or distributions, interest payments, and subscription rights;

(6) In the event that the borrower, at the termination of the loan period, fails to deliver to the board trust certificates for identical securities which are of the same class and issue as the loan securities, the borrowers shall forfeit to the system the collateral deposited.