

**24-75-601. Definitions.**

As used in this part 6, unless the context otherwise requires:

(1) "Public entity" means the state of Colorado; any institution, agency, instrumentality, authority, county, municipality, city and county, district, or other political subdivision of the state, including any school district and institution of higher education; any institution, department, agency, instrumentality, or authority of any of the foregoing, including any county or municipal housing authority; any local government investment pool organized pursuant to part 7 of this article; any public entity insurance pool organized pursuant to state law; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing.

(2) "Public funds" means any funds in the custody, possession, or control of a public entity; any funds over which a public entity has investment control; any funds over which a public entity would have investment control but for the entity's delegation of that control to another person; and any funds over which another person exercises investment control on behalf of or for the benefit of a public entity. "Public funds" includes, but is not limited to, proceeds of the sale of securities of a public entity and proceeds of certificates of participation or other securities evidencing rights in payments to be made by a public entity under a lease, lease-purchase agreement, or other similar arrangement, regardless of whether such proceeds are held by the public entity, a third-party trustee, or any other person. "Public funds" shall not include funds invested by the public employees' retirement association created in article 51 of this title or any other funds invested for employee retirement or pensions. "Public funds" shall also not include trusts managed on behalf of the board of education of a school district coterminous with a city and county for the benefit of a retiree's health insurance and teacher compensation.

(2.5) (Deleted by amendment, L. 2006, p. 551, § 2, effective August 7, 2006.)

(3) "Security" means any bill, note, bond, bankers' acceptance, commercial paper, repurchase agreement, reverse repurchase agreement, securities lending agreement, guaranteed investment contract, guaranteed interest contract, annuity contract, funding agreement, certificate of indebtedness or other evidence of indebtedness, or interest in any of the foregoing. No foregoing instrument shall be convertible to equity or represent any equity interest. All foregoing instruments shall be denominated in the currency of the United States.

**Source:** L. 37: p. 799, §§ 1, 2. CSA: C. 176, § 126(1). CRS 53: § 83-1-1. C.R.S. 1963: § 83-1-1. L. 65: p. 848, § 1. L. 69: p. 688, § 1. L. 71: p. 948, § 1. L. 75: (3) amended, p. 392, § 6, effective July 14. L. 83: (1.5) added, p. 1007, § 1, effective April 28. L. 89: Entire section R&RE, p. 1101, § 1, effective July 1. L. 2000: (2.5) added, p. 182, § 1, effective August 2. L. 2006: Entire section amended, p. 551, § 2, effective August 7.

**24-75-601.1. Legal investments of public funds.**

(1) It is lawful to invest public funds in any of the following securities:

(a) Any security issued by, fully guaranteed by, or for which the full credit of the United States treasury is pledged for payment and, notwithstanding paragraph (a) of subsection (1.3) of this section, inflation indexed securities issued by the United States treasury. The period from the date of settlement of this type of security to its maturity date shall be no more than five years unless the governing body of the public entity authorizes investment for a period in excess of five years.

(b) (I) Any security issued by, fully guaranteed by, or for which the full credit of the following is pledged for payment: The federal farm credit bank, the federal land bank, a federal home loan bank, the federal home loan mortgage corporation, the federal national mortgage association, the export-import bank, the Tennessee valley authority, the government national mortgage association, the world bank, or an entity or organization that is not listed in this paragraph (b) but that is created by, or the creation of which is authorized by, legislation enacted by the United States congress and that is subject to control by the federal government that is at least as extensive as that which governs an entity or organization listed in this paragraph (b). The period from the date of settlement of this type of security to its maturity date shall be no more than five years unless the governing body of the public entity authorizes investment for a period in excess of five years.

(II) No security may be purchased pursuant to this paragraph (b) unless, at the time of purchase, the security is rated in its highest rating category by two or more nationally recognized organizations that regularly rate such obligations and no such organizations rate the security lower than its highest rating category. Should the security issued as described in subparagraph (I) of this paragraph (b) fail to meet the minimum credit risk requirements, the security may be considered for purchase to the extent it conforms with the requirements of paragraph (m) of this subsection (1).

(c) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)

(d) (I) Any security that is a general obligation of any state of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any of such governmental entities.

(II) No security may be purchased pursuant to this paragraph (d) unless:

(A) At the time of purchase, the security is rated in one of its two highest rating categories by two or more nationally recognized organizations that regularly rate such obligations.

(B) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)

(C) The period from the date of settlement of this type of security to its maturity date shall be no more than three years unless the governing body of the public entity authorizes investment for a period in excess of three years.

(e) (I) Any security that is a revenue obligation of any state of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any of such governmental entities.

(II) No security may be purchased pursuant to this paragraph (c) unless, at the time of purchase, the security is rated in its highest rating category by two or more nationally recognized organizations that regularly rate such obligations.

(III) The period from the date of settlement of this type of security to its maturity date shall be no more than three years.

(f) and (g) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)

(h) Any security of the investing public entity or any certificate of participation or other security evidencing rights in payments to be made by the investing public entity under a lease, lease-purchase agreement, or similar arrangement;

(h.5) Any certificate of participation or other security evidencing rights in payments to be made by a school district under a lease, lease-purchase agreement, or similar arrangement if the security, at the time of purchase, carries at least two credit ratings from any of the nationally recognized credit rating agencies and is rated at or above "A" by all such credit agencies that have provided a rating;

(i) Any interest in any local government investment pool organized pursuant to part 7 of this article;

(j) The purchase of any repurchase agreement concerning any securities referred to in paragraph (a) or (b) of this subsection (1) that can otherwise be purchased under this section if all of the conditions of subparagraphs (I) to (VI) of this paragraph (j) are met:

(I) The securities subject to the repurchase agreement must be marketable.

(II) The title to or a perfected security interest in such securities along with any necessary transfer documents must be transferred to the investing public entity or to a custodian acting on behalf of the investing public entity.

(III) Such securities must be actually delivered versus payment to the public entity's custodian or to a third-party custodian or third-party trustee for safekeeping on behalf of the public entity.

(IV) The collateral securities of the repurchase agreement must be collateralized at no less than one hundred two percent and marked to market no less frequently than weekly.

(V) The securities subject to the repurchase agreement may have a maturity in excess of five years.

(VI) The period from the date of settlement of a repurchase agreement to its maturity date shall be no more than five years unless the governing body of the public entity authorizes investment for a period in excess of five years.

(j.5) Any reverse repurchase agreement concerning any securities referred to in paragraph (a) or (b) of this subsection (1) that can otherwise be purchased under this section if all of the conditions of subparagraphs (I) to (VII) of this paragraph (j.5) are met:

(I) Any necessary transfer documents must be transferred to the investing public entity.

(II) Cash must be received by the investing public entity or a custodian acting on behalf of the investing public entity in a deliver versus payment settlement.

(III) The cash received from a reverse repurchase agreement must be collateralized at no more than one hundred and five percent and marked to market no less frequently than weekly.

(IV) The repurchase agreement is not greater than ninety days in maturity from the date of settlement unless the governing body of the public entity authorizes investment for a period in excess of ninety days.

(V) The counter-party meets the credit conditions of an issuer that would qualify under paragraph (m) of this subsection (1).

(VI) The value of all securities reversed under this paragraph (j.5) does not exceed eighty percent of the total deposits and investments of the public entity.

(VII) No securities are purchased with the proceeds of the reverse repurchase agreement that are greater in maturity than the term of the reverse repurchase agreement.

(j.7) A securities lending agreement in which the public entity lends securities in exchange for securities authorized for investment in this section, if all of the following conditions are met:

(I) Any necessary transfer documents must be transferred to the investing public entity.

(II) Securities must be received by the investing public entity or a custodian acting on behalf of the investing public entity in a simultaneous settlement.

(III) The securities received in the securities lending agreement must be no less than one hundred two percent of the value of the securities lent and marked to market no less frequently than weekly.

(IV) The counter-party meets the conditions of an issuer specified in paragraph (m) of this subsection (1).

(V) In the case of a local government, the securities lending agreement shall be approved and designated by written resolution adopted by a majority vote of the governing body of the local government, which resolutions shall be recorded in its minutes.

(k) Any money market fund that is registered as an investment company under the federal "Investment Company Act of 1940", as amended, if, at the time the investing public entity invests in such fund:

(I) The investment policies of the fund include seeking to maintain a constant share price;

(II) No sales or load fee is added to the purchase price or deducted from the redemption price of the investments in the fund and no fee may be charged unless the governing body of the public entity authorizes such a fee at the time of the initial purchase;

(III) The investments of the fund consist only of securities with a maximum remaining maturity as specified in rule 2a-7 under the federal "Investment Company Act of 1940", as amended, or any successor regulation under such act regulating money market funds, so long as such rule 2a-7 is not amended to, or such successor regulation does not, increase the maximum remaining maturity of such securities to a period that is greater than three years, and if the fund has assets of one billion dollars or more, or has the highest current credit rating from one or more nationally recognized organizations that regularly rate such obligations.

(IV) The dollar-weighted average portfolio maturity of the fund meets the requirements specified in rule 2a-7 under the federal "Investment Company Act of 1940", as amended, or any successor regulation under such act regulating money market funds, so long as such rule 2a-7 is not amended to increase the dollar-weighted average portfolio maturity of a fund to a period greater than one hundred eighty days.

(l) (I) Any guaranteed investment contract, guaranteed interest contract, annuity contract, or funding agreement if, at the time the contract or agreement is entered into, the long-term credit rating, financial obligations rating, claims paying ability rating, or financial strength rating of the party, or of the guarantor of the party, with whom the public entity enters the contract or agreement is, at the time of issuance, rated in one of the two highest rating categories by two or more nationally recognized securities rating agencies that regularly issue such ratings.

(II) (Deleted by amendment, L. 2004, p. 950, § 7, effective May 21, 2004.)

(III) (A) Except as provided in sub-subparagraph (B) of this subparagraph (III), the contracts or agreements purchased under this paragraph (l) shall not have a maturity period greater than three years.

(B) Contracts or agreements with a maturity period greater than three years shall only be purchased with proceeds of the sale of securities of a public entity and proceeds of certificates of participation or other securities evidencing rights in payments to be made by a public entity under a lease, lease-purchase agreement, or other similar arrangement or if purchased by revenues pledged to the payment of such securities or certificates; except that no contract or agreement may be purchased pursuant to this paragraph (l) with the proceeds of any of the foregoing that are held in an escrow or otherwise for the purpose of refunding bonds or other obligations of a public entity.

(m) (I) Any corporate or bank security issued by a corporation or bank that is organized and operated within the United States must mature within three years from the date of settlement and, at the time of purchase, must carry at least two credit ratings from any of the nationally recognized credit rating agencies and must not be rated below "AA- or Aa3" by any credit rating agency. If the security is a money market instrument such as commercial paper or bankers' acceptance, then the security must carry at least two credit ratings from any of the nationally recognized credit rating agencies and must not be rated below "A1, P1, or F1" by any credit rating agency.

(II) At no time shall the book value of a public entity's investment in notes evidencing a debt pursuant to this paragraph (m) exceed the following:

(A) Fifty percent of the book value of the public entity's investment portfolio unless the governing body of the public entity authorizes a greater percent of such book value; or

(B) Five percent of the book value of the public entity's investment portfolio if the notes are issued by a single corporation or bank unless the governing body of the public entity authorizes a greater percent of such book value.

(n) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)

(1.3) (a) Except as provided in paragraph (a) of subsection (1) of this section and except as provided in paragraph (b) of this subsection (1.3), public funds shall not be invested in any security on which the coupon rate is not fixed, or a schedule of specific fixed coupon rates is not established, from the time the security is settled until its maturity date, other than shares in qualified money market mutual funds, unless the coupon rate is:

(I) Established by reference to the rate on a United States treasury security with a maturity of one year or less or to the United States dollar London interbank offer rate of one year or less maturity, or to the cost of funds index or the prime rate as published by the federal reserve; and

(II) Expressed as a positive value of the referenced index plus or minus a fixed number of basis points.

(b) A municipal index may be used for the investment of bond or note accounts from issues with coupons linked to the same index.

(c) For purposes of this section, "maturity date" means the last possible date, barring default, that principal can be repaid to the purchaser.

(1.5) Any firm that sells any financial instrument that fails to comply with the provisions of this section to any public entity in the state of Colorado shall, upon demand of the public entity through the state treasurer, repurchase such instruments for the greater of the original purchase principal amount or the original face value, plus any and all accrued interest, within one business day of the demand.

(2) Investments made pursuant to this section shall be made in conformance with the standard set forth in section 15-1-304, C.R.S.

(2.3) Public entities shall adopt criteria designating eligible broker-dealers for the purchase of term securities, except for bond proceed investments, under this section.

(2.5) (a) If a public entity invests public moneys through an investment firm offering for sale corporate stocks, bonds, notes, debentures, or a mutual fund that contains corporate securities, the investment firm shall disclose, in any research or other disclosure documents provided in support of the securities being offered, to the public entity whether the investment firm has an agreement with a for-profit corporation that is not a government-sponsored enterprise, whose securities are being offered for sale to the public entity and because of such agreement the investment firm:

(I) Had received compensation for investment banking services within the most recent twelve months; or

(II) May receive compensation for investment banking services within the next three consecutive months.

(b) For the purposes of this subsection (2.5), "investment firm" means a bank, brokerage firm, or other financial services firm conducting business within this state, or any agent thereof.

(3) Nothing in this section is intended to limit:

(a) The power of any public entity to invest any public funds in any security or other investment permitted to such public entities under any other valid law of the state; or

(b) The power of any home rule city, city and county, town, or county to invest any public funds in any security or other investment permitted under the charter or ordinance of such home rule city, city and county, town, or county; or

(c) The authority of the state board of regents to invest any funds available to the board in any security or other investment otherwise provided by law.

(3.5) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)

(4) Nothing in this section is intended to apply to public funds held or invested as part of any pension plan, full or supplemental retirement plan, or deferred compensation plan.

**Source:** **L. 89:** Entire section added, p. 1102, § 2, effective July 1. **L. 91:** (4) amended, p. 1917, § 39, effective June 1. **L. 93:** (1)(k)(II), IP(1)(k)(III), and (1)(k)(III)(C) amended and (1)(k)(IV) added, p. 1260, § 7, effective June 6. **L. 94:** (1)(k)(III) amended and (1)(m) added, p. 449, § 1, effective March 29. **L. 95:** IP(1)(j), (1)(k)(III), (1)(k)(III)(C), and (1)(k)(III)(D) amended and (1.3) and (1.5) added, p. 772, §

1, effective May 24. **L. 2000:** (1)(n) added, p. 182, § 2, effective August 2; (3.5) added, p. 811, § 1, effective August 2. **L. 2002:** (1)(d)(II) and (3.5) amended, pp. 258, 259, §§ 2, 3, effective April 12. **L. 2003:** (1)(I)(I) amended, p. 623, § 40, effective July 1; (2.5) added, p. 674, § 3, effective August 6. **L. 2004:** (1)(j)(I) and (1)(I) amended, p. 950, § 7, effective May 21. **L. 2006:** Entire section amended, p. 552, § 3, effective August 7. **L. 2009:** (1)(h.5) added, (SB 09-256), ch. 294, p. 1569, § 36, effective May 21.

**Cross references:** For the legislative declaration contained in the 2002 act amending subsections (1)(d)(II) and (3.5), see section 1 of chapter 94, Session Laws of Colorado 2002.

**24-75-601.2. Prior investments valid.**

Nothing in this article shall be construed so as to invalidate any legal investment made prior to July 1, 1989. Such investments shall continue to be authorized through their dates of maturity.

**Source: L. 89:** Entire section added, p. 1105, § 2, effective July 1.



**24-75-601.3. Remedial actions - investments not made in conformance with statute.**

The audit of the financial statements of public entities required by part 6 of article 1 of title 29, C.R.S., shall, in addition to all other requirements, include a supplemental listing of all investments held by the public entity at the date of the financial statement. The public entity shall divest itself of any investment which is not included as a lawful investment in section 24-75-601.1 or other statutory authority within six months of the initial disclosure of the existence of such investment.

**Source: L. 89:** Entire section added, p. 1105, § 2, effective July 1.

**24-75-601.4. Liability of officials of public entities.**

Elected or appointed officials or employees of public entities who, in the good faith performance of their duties as public officials, comply with the standards established in this part 6 for the investment of public funds in securities shall not be liable for any loss of public funds resulting from such investment.

**Source: L. 89:** Entire section added, p. 1105, § 2, effective July 1.

**24-75-601.5. Liability for sale of unlawful investments to public entities.**

(1) Any person who sells or causes to be sold to a public entity any investment which is not a lawful investment for such public entity pursuant to section 24-75-601.1 or other authority, and who knew or should have known that said investment was not a lawful investment, shall be liable to such public entity for any loss of investment principal resulting from such investment and, in addition, shall be liable for any reasonably foreseeable costs resulting from such loss, including but not limited to:

(a) Attorney fees; and

(b) Interest on the principal which would have resulted from the investment of said principal on the day the unlawful investment was made in one-year United States treasury bills at the market yield on such bills on such day.

**Source: L. 89:** Entire section added, p. 1105, § 2, effective July 1.

**24-75-701. Definitions.**

As used in this part 7, unless the context otherwise requires:

- (1) "Administrator" means the administrator of a local government investment pool trust fund created pursuant to section 24-75-703.
- (2) "Board" or "board of trustees" means the board of trustees composed of members that are selected from among the treasurers or other local officials empowered to invest the funds of local governments pursuant to section 24-75-703 (2), and any other independent and unaffiliated trustees named by such members.
- (3) "Custodian" means a designee located in the state of Colorado, with authority, including control, over public funds of a local government investment pool trust fund. For purposes of this subsection (3), "control" includes possession of public funds of a local government investment pool trust fund, as well as the authority to establish accounts for such public funds in banks and to make deposits, withdrawals, or disbursements of such public funds. If the exercise of authority over such public funds requires action by or the consent of two or more putative custodians, then such custodians shall be treated as one custodian with respect to such public funds.
- (4) "Financial institution" means an institution, with its primary place of business in this state and authorized by its charter to exercise fiduciary powers, that is a state bank, an industrial bank, a savings and loan association, or a trust company chartered by this state, a national bank organized or chartered under chapter 2 of title 12 of the United States Code, or a federal savings and loan association organized or chartered under chapter 12 of title 12 of the United States Code.
- (5) (a) "Investment adviser" means, except as provided in paragraph (b) of this subsection (5), any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, provide such investment advisory services to a local government investment pool trust fund for compensation or who hold themselves out as providing investment advisory services to a local government investment pool trust fund for compensation.
- (b) "Investment adviser" does not include:
  - (I) A publisher of any bona fide newspaper, magazine, or business or financial publication with a regular and paid circulation; a publisher of any securities advisory newsletter with a regular and paid circulation which does not provide advice to subscribers on their specific investment situations; or any author of material included in any such newspaper, magazine, publication, or newsletter who does not otherwise come within the definition of an "investment adviser" or "investment adviser representative";
  - (II) An investment adviser representative;
  - (III) A broker-dealer or sales representative for a broker-dealer licensed by the securities commissioner whose performance of investment advisory services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for such services;

- (IV) A financial institution or any person employed by or directly associated with a financial institution;
  - (V) A lawyer, certified public accountant, professional engineer, professional geologist, or teacher, if such person:
    - (A) Does not take possession of the funds or securities of a local government investment pool trust fund in connection with providing investment advisory services; and
    - (B) Does not receive commissions or other compensation, directly or indirectly, from the sale of any security to any local government investment pool trust fund to whom such person provides advice about the value or advisability of investing in such security; and
    - (C) Does not engage in the business of advising a local government investment pool trust fund as to the value of securities or as to the advisability of investing in, purchasing, or selling securities and provides such advice, if at all, in a manner solely incidental to the practice of the person's profession;
  - (VI) Any official, employee, or representative of the United States, any state, any political subdivision of a state, or any agency or body corporate or other instrumentality thereof, acting in such person's official capacity on behalf of such entity;
  - (VII) Any other person or class of persons the securities commissioner designates by rule or order.
- (6) "Investment adviser representative" means any individual who is a partner, officer, or director of an investment adviser, who occupies a similar status with or performs similar functions for an investment adviser, or who is employed or otherwise associated with an investment adviser, except clerical or ministerial personnel, and who:
- (a) Makes any recommendations or otherwise renders advice regarding securities;
  - (b) Manages accounts or portfolios of clients of the investment adviser;
  - (c) Determines which recommendation or advice regarding securities should be given;
  - (d) Solicits, offers, negotiates for the sale of, or sells, investment advisory services; or
  - (e) Supervises employees who perform any of the duties specified in this subsection (6).
- (7) "Investment advisory services" means those activities performed by a person in connection with such person's engaging in any of the activities described in paragraph (a) of subsection (5) of this section.
- (8) "Local government" means any county, city and county, town, school district, special district, or other political subdivision of the state, or any department, agency, or instrumentality thereof, or any political or public corporation of the state.
- (9) "Local government investment pool trust fund" means the trust fund created pursuant to section 24-75-703, that is comprised of moneys deposited by participating local governments in such trust fund and held by a custodian.
- (10) "Participating local government" means a local government that participates in a local government investment pool trust fund.
- (11) "Securities commissioner" means the commissioner of securities created by section 11-51-701, C.R.S.

(12) "Trust fund" means a local government investment pool trust fund.

**Source: L. 93:** Entire part R&RE, p. 317, § 1, effective July 1. **L. 2005:** (4) amended, p. 771, § 47, effective June 1.

**24-75-702. Local governments - authority to pool surplus funds.**

(1) In accordance with the provisions of this part 7, it is lawful for any local government to pool any moneys in its treasury, which are not immediately required to be disbursed, with the same such moneys in the treasury of any other local government and to deposit such moneys in a local government investment pool trust fund in order to take advantage of short-term investments and maximize net interest earnings.

(2) Any trust fund formed pursuant to this part 7 shall be subject to part 4 of article 6 and part 2 of article 72 of this title and shall be considered a local public body for purposes of those provisions.

**Source: L. 93:** Entire part R&RE, p. 320, § 1, effective July 1.

**Editor's note:** This section is similar to former § 24-75-701 as it existed prior to 1993.