# State of Tennessee 401(k) Plan Loan Policy
# Updated April, 2020

## Article I. Eligibility

Section 1.01 Only active employees who participate in a deferred compensation plan or defined contribution plan that permits loans may request a loan. The participant must have a minimum vested account balance of $4,000 made up of Employee contributions only. Employer dollars are not eligible for loans.

Section 1.01.1 The minimum vested account balance is lowered to $1,000 made up of Employee contributions only for loans requested from March 27, 2020 through September 23, 2020.

**Exception:** The following employers allow employer dollars to be used for participant loans:

1. Powell Clinch Utility District P 72
2. East TN Human Resource Agency P 731
3. Mid-Cumberland Human Resource Agency P 742
4. East TN Development District P 750

### Article II. Number of loans permitted

Section 2.01 The plan allows for multiple loans. The number of loans which a participant may have outstanding at one time is two (2).

Section 2.02 A participant is allowed one (1) loan per twelve (12) month period.

### Article III. Minimum and maximum loan amounts

Section 3.01 The minimum loan amount that a participant may request is $2,000 for a General Purpose Loan. For a mortgage loan, the minimum loan amount is $5,000.

Section 3.01.1 The minimum loan that a participant may request is lowered to $500 for a General Purpose Loan only for loans requested from March 27, 2020 through September 23, 2020.

Section 3.02 The maximum loan amount that a participant may request is the lesser of 50% of the vested account balance or $50,000. The $50,000 maximum loan amount is reduced by the highest outstanding loan balance during the past 12 months minus the loan balance on the date a new loan is made.

Section 3.03 If a participant has an outstanding loan through another qualified 403(b) or a 457 plan maintained by the same employer, the maximum loan amount available must be reduced by the highest outstanding loan balance during the past 12 months. The participant is responsible for ensuring that the aggregated loan amount on all plans maintained by the same plan sponsor is the lesser of $50,000 or 50% of the vested account balance.

**Article IV. Cost**

Section 4.01 A loan origination fee in the amount of $50 shall be deducted from the loan proceeds.

Section 4.02 An annual loan maintenance fee of $25 per loan will be deducted from the participant account on a quarterly basis, in the amount of $6.25 per quarter.

Section 4.03 Participant loan checks will be mailed via USPS to the address of record on file for the participant. Participants initiating a loan will have the option to request the proceeds be delivered via express mail for an additional charge of $25. This additional charge will be deducted from the loan proceeds.

**Article V. Loan Initiation**

Section 5.01 Empower Retirement allows for participant loan requests to be initiated via the participant website or via the dedicated RetireReadyTN Call Center.

**Article VI. Available Loan Types**

Section 6.01 There are two types of participant loans available from the Plan.

1. General Purpose Loan: loan term is from one-five (1-5) years.
2. Mortgage Loan: loan term is from ten-fifteen (10-15) years.

**Article VII. Loan Interest**

Section 7.01 Loan interest is calculated based on the Prime Rate published in the Wall Street Journal on the first business day of the month prior to the loan origination plus 1%.

Section 7.02 Loan interest is not income tax deductible.

**Article VIII. Loan repayment requirements**

Section 8.01 Scheduled loan repayments must be made by payroll deduction. Loan repayments will be allocated to the participant account according to the current investment elections on file on the Empower recordkeeping system as of the date the loan payment is received. Participants who separate from service have the ability to repay outstanding loan balances if they keep their account balance in the plan. The payments may be made by cashier's check or bank money order, or by setting up an ACH payment through the plan website.

Section 8.02 New loan initiations will be transmitted to participating employers via the Loan Detail Report. Loan repayment amounts are to be set up in the employer's payroll system in a timely manner to insure proper repayment per the terms of the loan.

Section 8.03 Participant plan loans will be considered in default if payments are not made in accordance with the Internal Revenue Code Section 72(p). A basic overview of the 72(p) regulations follow below.

(a) Any amount paid out of a plan will be treated as a taxable distribution unless the plan loan rules under Code Section 72(p) and the applicable Treasury regulations are followed.
(b) Payments must be made in level amortized amounts and must be made at least quarterly.
(c) Missed payments must be receive prior to the end of the calendar quarter following the quarter in which the payment was missed.

(d) If a participant fails to make a loan repayment on time, and the missed loan repayment(s) is/are not made by the end of the following calendar quarter (or within the plans' more restrictive cure period), the loan is in default and ceases to comply with Code Section 72(p).
(e) The entire outstanding loan balance plus accrued interest at the time of the default is taxable to the participant as a deemed distribution.
(f) The plan loan rules under Code Section 72(p) do not provide a mechanism to ignore missed payments or to reverse a loan that has already defaulted.

Section 8.04 Loans are in arrears and delinquent when any payment is missed. A late loan payment notice will be issued after the end of the calendar quarter in which the payment is delinquent. If all missed payments are not made by the end of the calendar quarter in which a payment is missed such that the loan is totally paid up-to-date, the loan will be in default. In that event, the entire outstanding loan balance, consisting of the missed payments, all accrued but unpaid interest and the remaining principal, will be reports to the IRS as taxable income on a Form 1099-R for the year in which the loan defaults occurs.

Section 8.05 In addition, if a loan has not been fully repaid by the end of its term, the outstanding balance will be taxable and will be reported to the IRS on Form 1099-R as taxable income. There is no opportunity to cure a late payment once the term has expired. The payroll department will be notified of the final loan payment amount prior to the final payment due date.

Section 8.06 If the participant has a loan that defaulted at any time in the past, their eligibility for a new loan is revoked.

Section 8.07 Participants who leave service prior to the end of the loan term will be required to pay off the loan at severance of employment as provided by the plan, or set up a payment plan via coupon book or ACH. A former participant may avoid treatment of an unpaid loan as a "deemed distribution", and reporting of income to the IRS by paying the loan balance by the end of the loan term. Non-payment will force a "deemed distribution" and reporting of taxable income in the year the "deemed distribution" occurs. Non-payment occurs at the end of the quarter following the quarter in which no payments are made.

Section 8.08 When a participant takes a leave of absence of no longer than one year either without pay from the employer or at a rate of pay that is less than the amount of the installment payments required under the terms of the loan, the plan should provide a leave of absence information for a leave start and stop date. The loan may be reamortized when the participant returns from the leave to pay the loan in full by the maturity date of the loan. The entire outstanding loan balance, including all accrued but unpaid interest, will be reamortized.

Section 8.09 If the participant takes a military leave of absence, the interest rate on the loan will be reduced to 6%, during the period of military service provided the interest rate on the loan is greater than 6%. Loan payments must resume upon the participant's return from military leave. The term of the loan may be extended by the term of the military leave. The entire outstanding loan balance, including all accrued but unpaid interest, will be reamortized.

Section 8.10 The participant's outstanding loan balance will be offset upon receiving any type of distribution after severance of employment. As required by federal tax regulations, a participant's defaulted loan will remain open the books until a qualifying event occurs, even though income has been reported to the IRS.

Section 8.11 Partial lump sum loan repayments, via a cashier's check or money order, are permitted in order to catch up on a past due amount or to reduce the principal amount of the loan. If a participant remits a partial payment, the loan payment amount will not change but the loan would be paid off earlier.

**Article IX. Early Loan Payoff**

Section 9.01 A loan can be paid in full at any time, in the form of a cashier's check or bank money order. The participant may obtain a loan payoff quote via the voice response system, by speaking with a call center representative or via the plan's website. The loan payoff quote is valid for 15 days from the date it is obtained.

**Article X. Outstanding Loan at Death**

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Section 10.01 All outstanding loan principal and accrued interest shall be treated as a distribution from the plan when Empower Retirement is notified of a participant's death. A deceased participant's loan may not be transferred or assumed by the participant's beneficiary (ies). If a participant's loan has not been repaid as of the date of the participant's death, any distributions made from the deceased participant's plan account will be made net of any outstanding loan obligations. The amount of the outstanding loan as of the participant's date of death will be tax reported as a distribution to the participant or to the participant's estate, as applicable.

**Article XI. Future additions**

Section 11.01 Future tax laws regarding plan loans will be incorporated into this loan policy and the loan application form.

**Article XII. Enforcement**

Section 12.01 Empower Retirement is required to enforce the rules governing retirement plan loans. The loan policy and loan administration procedures have been developed to comply with the requirements of Internal Revenue Codes Section 72(p) and the Federal Treasury Regulations thereunder, as amended from time to time.

The Plan Administrator/Employer herby authorizes the Service Provider to implement participant initiated loans based on the Loan Policy outlined above.

4/13/20

Authorized Plan Administrator/Employer Signature | Date