

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Hager offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (20) of section 215.47, Florida
6 Statutes, is amended to read:

7 215.47 Investments; authorized securities; loan of
8 securities.—Subject to the limitations and conditions of the
9 State Constitution or of the trust agreement relating to a trust
10 fund, moneys available for investments under ss. 215.44-215.53
11 may be invested as follows:

12 (20) Notwithstanding the provisions in subsection (5)
13 limiting such investments to 25 percent of any fund, the board
14 may invest up to 50 ~~no more than 35~~ percent of any fund in

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15 corporate obligations and securities of any kind of a foreign
16 corporation or a foreign commercial entity having its principal
17 office located in any country other than the United States or
18 its possessions or territories, not including United States
19 dollar-denominated securities listed and traded on a United
20 States exchange that are a part of the ordinary investment
21 strategy of the board.

22 Section 2. Subsections (1) and (2), paragraph (e) of
23 subsection (3), and subsection (5) of section 215.473, Florida
24 Statutes, are amended to read:

25 215.473 Divestiture by the State Board of Administration;
26 Sudan; Iran.—

27 (1) DEFINITIONS.—As used in this section ~~act~~, the term:

28 (a) "Active business operations" means all business
29 operations that are not inactive business operations.

30 (b) "Business operations" means engaging in commerce in
31 any form in Sudan or Iran, including, but not limited to,
32 acquiring, developing, maintaining, owning, selling, possessing,
33 leasing, or operating equipment, facilities, personnel,
34 products, services, personal property, real property, or any
35 other apparatus of business or commerce.

36 (c) "Company" means a ~~any~~ sole proprietorship,
37 organization, association, corporation, partnership, joint
38 venture, limited partnership, limited liability partnership,
39 limited liability company, or other entity or business
40 association, including all wholly owned subsidiaries, majority-

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41 owned subsidiaries, parent companies, or affiliates of such
42 entities or business associations, that exists for the purpose
43 of making profit.

44 (d) "Complicit" means taking actions during any preceding
45 20-month period which have directly supported or promoted the
46 genocidal campaign in Darfur, including, ~~but not limited to,~~
47 preventing Darfur's victimized population from communicating
48 with each other; encouraging Sudanese citizens to speak out
49 against an internationally approved security force for Darfur;
50 actively working to deny, cover up, or alter the record on human
51 rights abuses in Darfur; or other similar actions.

52 (e) "Direct holdings" in a company means all securities of
53 that company that are held directly by the public fund or in an
54 account or fund in which the public fund owns all shares or
55 interests.

56 (f) "Government of Iran" means the government of Iran, its
57 instrumentalities, and companies owned or controlled by the
58 government of Iran.

59 (g) "Government of South Sudan" means the Republic of
60 South Sudan, that has its capital in Juba, South Sudan.

61 (h) ~~(g)~~ "Government of Sudan" means the Republic of the
62 Sudan that has its capital ~~government~~ in Khartoum, Sudan, ~~that~~
63 is led by the National Congress Party, formerly known as the
64 National Islamic Front, or any successor government formed on or
65 after October 13, 2006, including the coalition National Unity
66 Government agreed upon in the Comprehensive Peace Agreement for

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67 ~~Sudan, and does not include the regional government of southern~~
68 ~~Sudan.~~

69 (i)~~(h)~~ "Inactive business operations" means the mere
70 continued holding or renewal of rights to property previously
71 operated for the purpose of generating revenues but not
72 presently deployed for such purpose.

73 (j)~~(i)~~ "Indirect holdings" in a company means all
74 securities of that company that are held in a commingled an
75 ~~account or fund or other collective investment~~, such as a mutual
76 fund, ~~managed by one or more persons not employed by the public~~
77 ~~fund~~, in which the public fund owns shares or interests together
78 with other investors not subject to ~~the provisions of this~~
79 section act.

80 (k)~~(j)~~ "Iran" means the Islamic Republic of Iran.

81 (l)~~(k)~~ "Marginalized populations of Sudan" include, but
82 are not limited to, the portion of the population in the Darfur
83 region that has been genocidally victimized; the portion of the
84 population of South ~~southern~~ Sudan victimized by Sudan's north-
85 south civil war; the Beja, Rashidiya, and other similarly
86 underserved groups of eastern Sudan; the Nubian and other
87 similarly underserved groups in Sudan's Abyei, Southern Blue
88 Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir,
89 and other similarly underserved groups of northern Sudan.

90 (m)~~(l)~~ "Military equipment" means weapons, arms, military
91 supplies, and equipment that may readily be used for military
92 purposes, including, but not limited to, radar systems,

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93 military-grade transport vehicles, or supplies or services sold
94 or provided directly or indirectly to any force actively
95 participating in armed conflict in Sudan.

96 (n)~~(m)~~ "Mineral-extraction activities" include the
97 exploring, extracting, processing, transporting, or wholesale
98 selling or trading of elemental minerals or associated metal
99 alloys or oxides (ore), including gold, copper, chromium,
100 chromite, diamonds, iron, iron ore, silver, tungsten, uranium,
101 and zinc, as well as facilitating such activities, including
102 providing supplies or services in support of such activities.

103 (o)~~(n)~~ "Oil-related activities" include, but are not
104 limited to, owning rights to oil blocks; exporting, extracting,
105 producing, refining, processing, exploring for, transporting,
106 selling, or trading of oil; constructing, maintaining, or
107 operating a pipeline, refinery, or other oil-field
108 infrastructure; and facilitating such activities, including
109 providing supplies or services in support of such activities,
110 except that the mere retail sale of gasoline and related
111 consumer products is not considered an oil-related activity.

112 (p)~~(o)~~ "Petroleum resources" means petroleum, petroleum
113 byproducts, or natural gas.

114 (q)~~(p)~~ "Power-production activities" means a ~~any~~ business
115 operation that involves a project commissioned by the National
116 Electricity Corporation (NEC) of Sudan or other similar entity
117 of the government of Sudan whose purpose is to facilitate power
118 generation and delivery, including, but not limited to,

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119 establishing power-generating plants or hydroelectric dams,
120 selling or installing components for the project, providing
121 service contracts related to the installation or maintenance of
122 the project, as well as facilitating such activities, including
123 providing supplies or services in support of such activities.

124 ~~(r)(q)~~ "Public fund" means all funds, assets, trustee, and
125 other designates under the State Board of Administration
126 pursuant to chapter 121.

127 ~~(s)(r)~~ "Scrutinized active business operations" means
128 active business operations that result ~~have resulted~~ in a
129 company becoming a scrutinized company.

130 ~~(t)(s)~~ "Scrutinized business operations" means business
131 operations that result ~~have resulted~~ in a company becoming a
132 scrutinized company.

133 ~~(u)(t)~~ "Scrutinized company" means a ~~any~~ company that
134 meets any of the following criteria:

135 1. The company has business operations that involve
136 contracts with or provision of supplies or services to the
137 government of Sudan, companies in which the government of Sudan
138 has a ~~any~~ direct or indirect equity share, consortiums or
139 projects commissioned by the government of Sudan, or companies
140 involved in consortiums or projects commissioned by the
141 government of Sudan, and:

142 a. More than 10 percent of the company's revenues or
143 assets linked to Sudan involve oil-related activities or
144 mineral-extraction activities; less than 75 percent of the

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145 company's revenues or assets linked to Sudan involve contracts
146 with or provision of oil-related or mineral-extracting products
147 or services to the ~~regional~~ government of South ~~southern~~ Sudan
148 ~~or a project or consortium created exclusively by that regional~~
149 ~~government~~; and the company has failed to take substantial
150 action; or

151 b. More than 10 percent of the company's revenues or
152 assets linked to Sudan involve power-production activities; less
153 than 75 percent of the company's power-production activities
154 include projects whose intent is to provide power or electricity
155 to the marginalized populations of Sudan; and the company has
156 failed to take substantial action.

157 2. The company is complicit in the Darfur genocide.

158 3. The company supplies military equipment within Sudan,
159 unless it clearly shows that the military equipment cannot be
160 used to facilitate offensive military actions in Sudan or the
161 company implements rigorous and verifiable safeguards to prevent
162 use of that equipment by forces actively participating in armed
163 conflict. Examples of safeguards include post-sale tracking of
164 such equipment by the company, certification from a reputable
165 and objective third party that such equipment is not being used
166 by a party participating in armed conflict in Sudan, or sale of
167 such equipment solely to the ~~regional~~ government of South
168 ~~southern~~ Sudan or any internationally recognized peacekeeping
169 force or humanitarian organization.

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170 4. The company has business operations that involve
171 contracts with or provision of supplies or services to the
172 government of Iran, companies in which the government of Iran
173 has any direct or indirect equity share, consortiums, or
174 projects commissioned by the government of Iran, or companies
175 involved in consortiums or projects commissioned by the
176 government of Iran and:

177 a. More than 10 percent of the company's total revenues or
178 assets are linked to Iran and involve oil-related activities or
179 mineral-extraction activities,~~+~~ and the company has failed to
180 take substantial action; or

181 b. The company has, with actual knowledge, on or after
182 August 5, 1996, made an investment of \$20 million or more, or
183 any combination of investments of at least \$10 million each,
184 which in the aggregate equals or exceeds \$20 million in any 12-
185 month period, and which directly or significantly contributes to
186 the enhancement of Iran's ability to develop the petroleum
187 resources of Iran.

188 ~~(v)(u)~~ "Social-development company" means a company whose
189 primary purpose in Sudan is to provide humanitarian goods or
190 services, including medicine or medical equipment; agricultural
191 supplies or infrastructure; educational opportunities;
192 journalism-related activities; information or information
193 materials; spiritual-related activities; services of a purely
194 clerical or reporting nature; food, clothing, or general

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195 consumer goods that are unrelated to oil-related activities;
196 mineral-extraction activities; or power-production activities.

197 ~~(w)~~ ~~(v)~~ "Substantial action specific to Iran" means
198 adopting, publicizing, and implementing a formal plan to cease
199 scrutinized business operations within 1 year and to refrain
200 from ~~any~~ such new business operations.

201 ~~(x)~~ ~~(w)~~ "Substantial action specific to Sudan" means
202 adopting, publicizing, and implementing a formal plan to cease
203 scrutinized business operations within 1 year and to refrain
204 from ~~any~~ such new business operations; undertaking humanitarian
205 efforts in conjunction with an international organization, the
206 government of Sudan, the ~~regional~~ government of South ~~southern~~
207 Sudan, or a nonprofit entity evaluated and certified by an
208 independent third party to be substantially in a relationship to
209 the company's Sudan business operations and of benefit to one or
210 more marginalized populations of Sudan; or, through engagement
211 with the government of Sudan, materially improving conditions
212 for the genocidally victimized population in Darfur.

213 (2) IDENTIFICATION OF COMPANIES.—

214 (a) Within 90 days after June 8, 2007 ~~the effective date~~
215 ~~of this act~~, the public fund shall make its best efforts to
216 identify all scrutinized companies in which the public fund has
217 direct or indirect holdings or could possibly have such holdings
218 in the future. Such efforts include:

219 1. Reviewing and relying, as appropriate in the public
220 fund's judgment, on publicly available information regarding

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221 companies having business operations in Sudan, including
222 information provided by nonprofit organizations, research firms,
223 international organizations, and government entities;

224 2. Contacting asset managers contracted by the public fund
225 which that invest in companies having business operations in
226 Sudan; or

227 3. Contacting other institutional investors that have
228 divested from or engaged with companies that have business
229 operations in Sudan.

230 4. Reviewing the laws of the United States regarding the
231 levels of business activity that would cause application of
232 sanctions for companies conducting business or investing in
233 countries that are designated state sponsors of terror.

234 (b) By the first meeting of the public fund following the
235 90-day period described in paragraph (a), the public fund shall
236 assemble all scrutinized companies that fit criteria specified
237 in subparagraphs (1)(u)1., 2., and 3. ~~(1)(t)1., 2., and 3.~~ into
238 a "Scrutinized Companies with Activities in Sudan List" and
239 ~~shall assemble~~ all scrutinized companies that fit criteria
240 specified in subparagraph (1)(u)4. ~~(1)(t)4.~~ into a "Scrutinized
241 Companies with Activities in the Iran Petroleum Energy Sector
242 List."

243 (c) The public fund shall update and make publicly
244 available quarterly the Scrutinized Companies with Activities in
245 Sudan List and the Scrutinized Companies with Activities in the

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246 Iran Petroleum Energy Sector List based on evolving information
247 from, among other sources, those listed in paragraph (a).

248 (d) Notwithstanding the provisions of this section ~~act~~, a
249 social-development company that is not complicit in the Darfur
250 genocide is not considered a scrutinized company under
251 subparagraph (1)(u)1. ~~(1)(t)1.~~, subparagraph (1)(u)2. ~~(1)(t)2.~~,
252 or subparagraph (1)(u)3 ~~(1)(t)3.~~

253 (3) REQUIRED ACTIONS.—The public fund shall adhere to the
254 following procedure for assembling companies on the Scrutinized
255 Companies with Activities in Sudan List and the Scrutinized
256 Companies with Activities in the Iran Petroleum Energy Sector
257 List:

258 (e) *Excluded securities.*—

259 1. Notwithstanding the provisions of this section ~~act~~,
260 paragraphs (b) and (c) do not apply to indirect holdings in
261 actively managed investment funds. However, the public fund
262 shall submit letters to the managers of such investment funds
263 containing companies that have scrutinized active business
264 operations requesting that they consider removing such companies
265 from the fund or create a similar actively managed fund having
266 indirect holdings devoid of such companies. If the manager
267 creates a similar fund, the public fund shall replace all
268 applicable investments with investments in the similar fund in
269 an expedited timeframe consistent with prudent investing
270 standards. For the purposes of this section, a private equity
271 fund is deemed to be an actively managed investment fund.

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272 2. Notwithstanding the provisions of this section,
273 paragraphs (b) and (c) do not apply to exchange-traded funds.

274 (5) EXPIRATION.—This section ~~act~~ expires upon the
275 occurrence of all of the following:

276 (a) If any of the following occur, the public fund shall
277 no longer scrutinize companies according to subparagraphs
278 (1) (u) 1., 2., and 3. ~~(1) (t) 1., 2., and 3.~~ and shall no longer
279 assemble the Scrutinized Companies with Activities in Sudan
280 List, shall cease engagement and divestment of such companies,
281 and may reinvest in such companies if ~~as long as~~ such companies
282 do not satisfy the criteria for inclusion in the Scrutinized
283 Companies with Activities in the Iran Petroleum Energy Sector
284 List:

285 1. The Congress or President of the United States,
286 affirmatively and unambiguously states, by means including, but
287 not limited to, legislation, executive order, or written
288 certification from the President to Congress, that the Darfur
289 genocide has been halted for at least 12 months;

290 2. The United States revokes all sanctions imposed against
291 the government of Sudan;

292 3. The Congress or President of the United States
293 affirmatively and unambiguously states, by means including, but
294 not limited to, legislation, executive order, or written
295 certification from the President to Congress, that the
296 government of Sudan has honored its commitments to cease attacks
297 on civilians, demobilize and demilitarize the Janjaweed and

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298 associated militias, grant free and unfettered access for
299 deliveries of humanitarian assistance, and allow for the safe
300 and voluntary return of refugees and internally displaced
301 persons; or

302 4. The Congress or President of the United States
303 affirmatively and unambiguously states, by means including, but
304 not limited to, legislation, executive order, or written
305 certification from the President to Congress, that mandatory
306 divestment of the type provided for in this section ~~act~~
307 interferes with the conduct of United States foreign policy.

308 (b) If any of the following occur, the public fund shall
309 no longer scrutinize companies according to subparagraph
310 (1)(u)4. ~~(1)(t)4.~~ and shall no longer assemble the Scrutinized
311 Companies with Activities in the Iran Petroleum Energy Sector
312 List and shall cease engagement, investment prohibitions, and
313 divestment. The public fund may reinvest in such companies if ~~as~~
314 ~~long as~~ such companies do not satisfy the criteria for inclusion
315 in the Scrutinized Companies with Activities in Sudan List:

316 1. The Congress or President of the United States
317 affirmatively and unambiguously states, by means including, but
318 not limited to, legislation, executive order, or written
319 certification from the President to Congress, that the
320 government of Iran has ceased to acquire weapons of mass
321 destruction and support international terrorism;

322 2. The United States revokes all sanctions imposed against
323 the government of Iran; or

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324 3. The Congress or President of the United States
 325 affirmatively and unambiguously declares, by means including,
 326 but not limited to, legislation, executive order, or written
 327 certification from the President to Congress, that mandatory
 328 divestment of the type provided for in this section ~~act~~
 329 interferes with the conduct of United States foreign policy.

330 Section 3. Section 624.449, Florida Statutes, is created
 331 to read:

332 624.449 Insurer investment in foreign companies.—A
 333 domestic insurer shall provide to the office on an annual basis
 334 a list of investments that the insurer has in companies included
 335 on the "Scrutinized Companies with Activities in Sudan List" and
 336 the "Scrutinized Companies with Activities in the Iran Petroleum
 337 Energy Sector List" compiled by the State Board of
 338 Administration pursuant to s. 215.473(2). The insurer's list
 339 must include the name of the issuer and the stock, bond,
 340 security, and other evidence of indebtedness.

341 Section 4. If any provision of this act or the application
 342 thereof to any person or circumstance is held invalid, the
 343 invalidity does not affect other provisions or applications of
 344 the act which can be given effect without the invalid provision
 345 or application, and to this end the provisions of this act are
 346 declared severable.

347 Section 5. This act shall take effect July 1, 2014.

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T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to foreign investments; amending s. 215.47, F.S.; revising the percentage of investments that the State Board of Administration may invest in foreign securities; amending s. 215.473, F.S.; revising and providing definitions with respect to requirements that the board divest securities in which public moneys are invested in certain companies doing specified types of business in or with Sudan or Iran; revising exclusions from the divestment requirements; conforming cross-references; creating s. 624.449, F.S.; requiring a domestic insurer to provide a list of investments that it has in companies on the State Board of Administration's lists of scrutinized companies with activities in Sudan or in Iran's petroleum energy sector; providing for severability; providing an effective date.

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