

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 domestic insurers to report quarterly on specified investments to the Office of Insurance Regulation; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

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

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

(20) Notwithstanding the provisions in subsection (5)

27 limiting such investments to 25 percent of any fund, the board
28 may invest up to 50 ~~no more than 35~~ percent of any fund in
29 corporate obligations and securities of any kind of a foreign
30 corporation or a foreign commercial entity having its principal
31 office located in any country other than the United States or
32 its possessions or territories, not including United States
33 dollar-denominated securities listed and traded on a United
34 States exchange that are a part of the ordinary investment
35 strategy of the board.

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

39 215.473 Divestiture by the State Board of Administration;
40 Sudan; Iran.—

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

42 (a) "Active business operations" means all business
43 operations that are not inactive business operations.

44 (b) "Business operations" means engaging in commerce in
45 any form in Sudan or Iran, including, but not limited to,
46 acquiring, developing, maintaining, owning, selling, possessing,
47 leasing, or operating equipment, facilities, personnel,
48 products, services, personal property, real property, or any
49 other apparatus of business or commerce.

50 (c) "Company" means a ~~any~~ sole proprietorship,
51 organization, association, corporation, partnership, joint
52 venture, limited partnership, limited liability partnership,

53 limited liability company, or other entity or business
54 association, including all wholly owned subsidiaries, majority-
55 owned subsidiaries, parent companies, or affiliates of such
56 entities or business associations, that exists for the purpose
57 of making profit.

58 (d) "Complicit" means taking actions during any preceding
59 20-month period which have directly supported or promoted the
60 genocidal campaign in Darfur, including, ~~but not limited to,~~
61 preventing Darfur's victimized population from communicating
62 with each other; encouraging Sudanese citizens to speak out
63 against an internationally approved security force for Darfur;
64 actively working to deny, cover up, or alter the record on human
65 rights abuses in Darfur; or other similar actions.

66 (e) "Direct holdings" in a company means all securities of
67 that company that are held directly by the public fund or in an
68 account or fund in which the public fund owns all shares or
69 interests.

70 (f) "Government of Iran" means the government of Iran, its
71 instrumentalities, and companies owned or controlled by the
72 government of Iran.

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

75 (h) ~~(g)~~ "Government of Sudan" means the Republic of the
76 Sudan that has its capital ~~government~~ in Khartoum, Sudan, ~~that~~
77 ~~is led by the National Congress Party, formerly known as the~~
78 ~~National Islamic Front, or any successor government formed on or~~

79 ~~after October 13, 2006, including the coalition National Unity~~
80 ~~Government agreed upon in the Comprehensive Peace Agreement for~~
81 ~~Sudan, and does not include the regional government of southern~~
82 ~~Sudan.~~

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

87 (j)~~(i)~~ "Indirect holdings" in a company means all
88 securities of that company that are held in a commingled an
89 ~~account or fund~~ or other collective investment, such as a mutual
90 fund, ~~managed by one or more persons not employed by the public~~
91 ~~fund~~, in which the public fund owns shares or interests together
92 with other investors not subject to ~~the provisions of this~~
93 section act.

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

95 (l)~~(k)~~ "Marginalized populations of Sudan" include, but
96 are not limited to, the portion of the population in the Darfur
97 region that has been genocidally victimized; the portion of the
98 population of South ~~southern~~ Sudan victimized by Sudan's north-
99 south civil war; the Beja, Rashidiya, and other similarly
100 underserved groups of eastern Sudan; the Nubian and other
101 similarly underserved groups in Sudan's Abyei, Southern Blue
102 Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir,
103 and other similarly underserved groups of northern Sudan.

104 (m)~~(l)~~ "Military equipment" means weapons, arms, military

105 supplies, and equipment that may readily be used for military
106 purposes, including, but not limited to, radar systems,
107 military-grade transport vehicles, or supplies or services sold
108 or provided directly or indirectly to any force actively
109 participating in armed conflict in Sudan.

110 (n)~~(m)~~ "Mineral-extraction activities" include the
111 exploring, extracting, processing, transporting, or wholesale
112 selling or trading of elemental minerals or associated metal
113 alloys or oxides (ore), including gold, copper, chromium,
114 chromite, diamonds, iron, iron ore, silver, tungsten, uranium,
115 and zinc, as well as facilitating such activities, including
116 providing supplies or services in support of such activities.

117 (o)~~(n)~~ "Oil-related activities" include, but are not
118 limited to, owning rights to oil blocks; exporting, extracting,
119 producing, refining, processing, exploring for, transporting,
120 selling, or trading of oil; constructing, maintaining, or
121 operating a pipeline, refinery, or other oil-field
122 infrastructure; and facilitating such activities, including
123 providing supplies or services in support of such activities,
124 except that the mere retail sale of gasoline and related
125 consumer products is not considered an oil-related activity.

126 (p)~~(e)~~ "Petroleum resources" means petroleum, petroleum
127 byproducts, or natural gas.

128 (q)~~(p)~~ "Power-production activities" means any business
129 operation that involves a project commissioned by the National
130 Electricity Corporation (NEC) of Sudan or other similar entity

131 of the government of Sudan whose purpose is to facilitate power
132 generation and delivery, including, but not limited to,
133 establishing power-generating plants or hydroelectric dams,
134 selling or installing components for the project, providing
135 service contracts related to the installation or maintenance of
136 the project, as well as facilitating such activities, including
137 providing supplies or services in support of such activities.

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

141 (s)~~(r)~~ "Scrutinized active business operations" means
142 active business operations that result ~~have resulted~~ in a
143 company becoming a scrutinized company.

144 (t)~~(s)~~ "Scrutinized business operations" means business
145 operations that result ~~have resulted~~ in a company becoming a
146 scrutinized company.

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

149 1. The company has business operations that involve
150 contracts with or provision of supplies or services to the
151 government of Sudan, companies in which the government of Sudan
152 has a ~~any~~ direct or indirect equity share, consortiums or
153 projects commissioned by the government of Sudan, or companies
154 involved in consortiums or projects commissioned by the
155 government of Sudan, and:

156 a. More than 10 percent of the company's revenues or

157 assets linked to Sudan involve oil-related activities or
158 mineral-extraction activities; less than 75 percent of the
159 company's revenues or assets linked to Sudan involve contracts
160 with or provision of oil-related or mineral-extracting products
161 or services to the ~~regional~~ government of South ~~southern~~ Sudan
162 ~~or a project or consortium created exclusively by that regional~~
163 ~~government~~; and the company has failed to take substantial
164 action; or

165 b. More than 10 percent of the company's revenues or
166 assets linked to Sudan involve power-production activities; less
167 than 75 percent of the company's power-production activities
168 include projects whose intent is to provide power or electricity
169 to the marginalized populations of Sudan; and the company has
170 failed to take substantial action.

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

172 3. The company supplies military equipment within Sudan,
173 unless it clearly shows that the military equipment cannot be
174 used to facilitate offensive military actions in Sudan or the
175 company implements rigorous and verifiable safeguards to prevent
176 use of that equipment by forces actively participating in armed
177 conflict. Examples of safeguards include post-sale tracking of
178 such equipment by the company, certification from a reputable
179 and objective third party that such equipment is not being used
180 by a party participating in armed conflict in Sudan, or sale of
181 such equipment solely to the ~~regional~~ government of South
182 ~~southern~~ Sudan or any internationally recognized peacekeeping

183 force or humanitarian organization.

184 4. The company has business operations that involve
185 contracts with or provision of supplies or services to the
186 government of Iran, companies in which the government of Iran
187 has any direct or indirect equity share, consortiums, or
188 projects commissioned by the government of Iran, or companies
189 involved in consortiums or projects commissioned by the
190 government of Iran and:

191 a. More than 10 percent of the company's total revenues or
192 assets are linked to Iran and involve oil-related activities or
193 mineral-extraction activities,+ and the company has failed to
194 take substantial action; or

195 b. The company has, with actual knowledge, on or after
196 August 5, 1996, made an investment of \$20 million or more, or
197 any combination of investments of at least \$10 million each,
198 which in the aggregate equals or exceeds \$20 million in any 12-
199 month period, and which directly or significantly contributes to
200 the enhancement of Iran's ability to develop the petroleum
201 resources of Iran.

202 (v)~~(u)~~ "Social-development company" means a company whose
203 primary purpose in Sudan is to provide humanitarian goods or
204 services, including medicine or medical equipment; agricultural
205 supplies or infrastructure; educational opportunities;
206 journalism-related activities; information or information
207 materials; spiritual-related activities; services of a purely
208 clerical or reporting nature; food, clothing, or general

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

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

215 (x) ~~(w)~~ "Substantial action specific to Sudan" means
 216 adopting, publicizing, and implementing a formal plan to cease
 217 scrutinized business operations within 1 year and to refrain
 218 from ~~any~~ such new business operations; undertaking humanitarian
 219 efforts in conjunction with an international organization, the
 220 government of Sudan, the ~~regional~~ government of South ~~southern~~
 221 Sudan, or a nonprofit entity evaluated and certified by an
 222 independent third party to be substantially in a relationship to
 223 the company's Sudan business operations and of benefit to one or
 224 more marginalized populations of Sudan; or, through engagement
 225 with the government of Sudan, materially improving conditions
 226 for the genocidally victimized population in Darfur.

227 (2) IDENTIFICATION OF COMPANIES.—

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

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

235 companies having business operations in Sudan, including
236 information provided by nonprofit organizations, research firms,
237 international organizations, and government entities;

238 2. Contacting asset managers contracted by the public fund
239 which that invest in companies having business operations in
240 Sudan; or

241 3. Contacting other institutional investors that have
242 divested from or engaged with companies that have business
243 operations in Sudan.

244 4. Reviewing the laws of the United States regarding the
245 levels of business activity that would cause application of
246 sanctions for companies conducting business or investing in
247 countries that are designated state sponsors of terror.

248 (b) By the first meeting of the public fund following the
249 90-day period described in paragraph (a), the public fund shall
250 assemble all scrutinized companies that fit criteria specified
251 in subparagraphs (1)(u)1., 2., and 3. ~~(1)(t)1., 2., and 3.~~ into
252 a "Scrutinized Companies with Activities in Sudan List" and
253 ~~shall assemble~~ all scrutinized companies that fit criteria
254 specified in subparagraph (1)(u)4. ~~(1)(t)4.~~ into a "Scrutinized
255 Companies with Activities in the Iran Petroleum Energy Sector
256 List."

257 (c) The public fund shall update and make publicly
258 available quarterly the Scrutinized Companies with Activities in
259 Sudan List and the Scrutinized Companies with Activities in the
260 Iran Petroleum Energy Sector List based on evolving information

261 from, among other sources, those listed in paragraph (a).

262 (d) Notwithstanding the provisions of this section ~~act~~, a
 263 social-development company that is not complicit in the Darfur
 264 genocide is not considered a scrutinized company under
 265 subparagraph (1)(u)1. ~~(1)(t)1.~~, subparagraph (1)(u)2. ~~(1)(t)2.~~,
 266 or subparagraph (1)(u)3 ~~(1)(t)3.~~

267 (3) REQUIRED ACTIONS.—The public fund shall adhere to the
 268 following procedure for assembling companies on the Scrutinized
 269 Companies with Activities in Sudan List and the Scrutinized
 270 Companies with Activities in the Iran Petroleum Energy Sector
 271 List:

272 (e) Excluded securities.—

273 1. Notwithstanding the provisions of this section ~~act~~,
 274 paragraphs (b) and (c) do not apply to indirect holdings in
 275 actively managed investment funds. However, the public fund
 276 shall submit letters to the managers of such investment funds
 277 containing companies that have scrutinized active business
 278 operations requesting that they consider removing such companies
 279 from the fund or create a similar actively managed fund having
 280 indirect holdings devoid of such companies. If the manager
 281 creates a similar fund, the public fund shall replace all
 282 applicable investments with investments in the similar fund in
 283 an expedited timeframe consistent with prudent investing
 284 standards. For the purposes of this section, a private equity
 285 fund is deemed to be an actively managed investment fund.

286 2. Notwithstanding the provisions of this section,

287 paragraphs (b) and (c) do not apply to exchange-traded funds.

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

290 (a) If any of the following occur, the public fund shall
 291 no longer scrutinize companies according to subparagraphs
 292 (1)(u)1., 2., and 3. ~~(1)(t)1., 2., and 3.~~ and shall no longer
 293 assemble the Scrutinized Companies with Activities in Sudan
 294 List, shall cease engagement and divestment of such companies,
 295 and may reinvest in such companies if ~~as long as~~ such companies
 296 do not satisfy the criteria for inclusion in the Scrutinized
 297 Companies with Activities in the Iran Petroleum Energy Sector
 298 List:

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

304 2. The United States revokes all sanctions imposed against
 305 the government of Sudan;

306 3. The Congress or President of the United States
 307 affirmatively and unambiguously states, by means including, but
 308 not limited to, legislation, executive order, or written
 309 certification from the President to Congress, that the
 310 government of Sudan has honored its commitments to cease attacks
 311 on civilians, demobilize and demilitarize the Janjaweed and
 312 associated militias, grant free and unfettered access for

313 deliveries of humanitarian assistance, and allow for the safe
314 and voluntary return of refugees and internally displaced
315 persons; or

316 4. 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 mandatory
320 divestment of the type provided for in this section ~~act~~
321 interferes with the conduct of United States foreign policy.

322 (b) If any of the following occur, the public fund shall
323 no longer scrutinize companies according to subparagraph
324 (1)(u)4. ~~(1)(t)4.~~ and shall no longer assemble the Scrutinized
325 Companies with Activities in the Iran Petroleum Energy Sector
326 List and shall cease engagement, investment prohibitions, and
327 divestment. The public fund may reinvest in such companies if ~~as~~
328 ~~long as~~ such companies do not satisfy the criteria for inclusion
329 in the Scrutinized Companies with Activities in Sudan List:

330 1. The Congress or President of the United States
331 affirmatively and unambiguously states, by means including, but
332 not limited to, legislation, executive order, or written
333 certification from the President to Congress, that the
334 government of Iran has ceased to acquire weapons of mass
335 destruction and support international terrorism;

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

338 3. The Congress or President of the United States

339 affirmatively and unambiguously declares, by means including,
 340 but not limited to, legislation, executive order, or written
 341 certification from the President to Congress, that mandatory
 342 divestment of the type provided for in this section ~~act~~
 343 interferes with the conduct of United States foreign policy.

344 Section 3. Section 624.449, Florida Statutes, is created
 345 to read:

346 624.449 Insurer investment in foreign companies.—A
 347 domestic insurer must provide to the office on a quarterly basis
 348 a list of investments that the domestic insurer has in companies
 349 included on the Scrutinized Companies with Activities in Sudan
 350 List and the Scrutinized Companies with Activities in the Iran
 351 Petroleum Energy Sector List compiled by the State Board of
 352 Administration pursuant to s. 215.473. This list must include
 353 the name of the issuer and the stock, bond, security, and other
 354 evidence of indebtedness.

355 Section 4. If any provision of this act or the application
 356 thereof to any person or circumstance is held invalid, the
 357 invalidity does not affect other provisions or applications of
 358 the act which can be given effect without the invalid provision
 359 or application, and to this end the provisions of this act are
 360 declared severable.

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